

## SENATE.

TUESDAY, December 14, 1920.

The Chaplain, Rev. Forrest J. Prettyman, D. D., offered the following prayer:

Almighty God, we come to Thee continually amid the unrest of the world and the unrest of our own hearts seeking divine favor, looking for the light of divine revelation upon the duties and problems of the present time. We thank Thee that we are unsatisfied, that there is a goal and an inspiration within us that leads us to aspire for the highest and the best. We thank Thee for every indication that Thou art favorable to the highest and do not lead us to the best. Give us that devotion of spirit and that spiritual insight into the purposes of God that will enable us to work nobly and well in the sphere to which Thou dost call us this day. Let Thy blessing abide upon our work. For Christ's sake. Amen.

The reading clerk proceeded to read the Journal of the proceedings of the legislative day, Saturday, December 11, when, on request of Mr. CURTIS and by unanimous consent, the further reading was dispensed with and the Journal was approved.

## EXPENDITURES, DEPARTMENT OF AGRICULTURE.

The VICE PRESIDENT laid before the Senate a communication from the Secretary of Agriculture, transmitting, pursuant to law, a detailed statement of expenditures of the Department of Agriculture for the fiscal year ended June 30, 1920, which was referred to the Committee on Agriculture.

## CONVENTION OF AMERICAN INSTRUCTORS OF THE DEAF.

The VICE PRESIDENT laid before the Senate a communication from the American Instructors of the Deaf, transmitting, pursuant to law, the proceedings of the twenty-second meeting of the convention, held at Mount Airy, Philadelphia, Pa., June 28 to July 3, 1920, which was referred to the Committee on Printing.

## MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by D. K. Hempstead, its enrolling clerk, announced that the House had passed the following bill and joint resolutions, in which it requested the concurrence of the Senate:

H. R. 14461. An act to provide for the protection of the citizens of the United States by the temporary suspension of immigration, and for other purposes.

H. J. Res. 382. Joint resolution declaring that certain acts of Congress, joint resolutions, and proclamations shall be construed as if the war had ended and the present or existing emergency expired.

H. J. Res. 407. Joint resolution authorizing the payment of salaries of officers and employees of Congress for December, 1920, on the 20th day of said month.

The message also announced that the House had agreed to the concurrent resolution (S. Con. Res. 34) providing for the appointment of a committee to make the necessary arrangements for the inauguration of the President elect of the United States on the 4th day of March next, and that the Speaker of the House had appointed Mr. CANNON, Mr. REAVIS, and Mr. RUCKER as members of the committee on the part of the House.

## INAUGURATION OF PRESIDENT ELECT.

The VICE PRESIDENT. Pursuant to the provision of the concurrent resolution (S. Con. Res. 34) providing for the appointment of a committee to make the necessary arrangements for the inauguration of the President elect of the United States on the 4th day of March next, the Chair appoints Mr. KNOX, Mr. NELSON, and Mr. OVERMAN members of the committee on the part of the Senate.

## CALL OF THE ROLL.

Mr. CURTIS. Mr. President, I suggest the absence of a quorum.

The VICE PRESIDENT. The Secretary will call the roll.

The reading clerk called the roll, and the following Senators answered to their names:

Ball	Gronna	Lodge	Simmons
Beckham	Harris	McCumber	Smith, Ga.
Borah	Harrison	McKellar	Smith, Md.
Brandegee	Heflin	McLean	Smoot
Calder	Henderson	McNary	Spencer
Capper	Hitchcock	Moses	Sterling
Chamberlain	Jones, Wash.	Nelson	Sutherland
Culberson	Kellogg	New	Thomas
Curtis	Kendrick	Norris	Trammell
Dial	Kenyon	Overman	Underwood
Dillingham	Keyes	Page	Wadsworth
Edge	King	Philpotts	Walsh, Mass.
Fernald	Kirby	Poin Dexter	Walsh, Mont.
Fletcher	Knox	Pomerene	Warren
France	La Follette	Ransdell	Watson
Frelinghuysen	Lenroot	Sheppard	

Mr. CHAMBERLAIN. I was requested to announce that the Senator from Idaho [Mr. NUGENT] and the Senator from Nevada [Mr. PITTMAN] are absent on business of the Senate.

Mr. HARRISON. I was requested to announce the absence of the Senator from North Dakota [Mr. JOHNSON] on account of illness.

The VICE PRESIDENT. Sixty-three Senators have answered to the roll call. There is a quorum present.

## HOUSE BILL AND JOINT RESOLUTION REFERRED.

H. R. 14461. An act to provide for the protection of the citizens of the United States by the temporary suspension of immigration, and for other purposes, was read twice by its title and referred to the Committee on Immigration.

H. J. Res. 382. Joint resolution declaring that certain acts of Congress, joint resolutions, and proclamations shall be construed as if the war had ended and the present or existing emergency expired, was read twice by its title and referred to the Committee on the Judiciary.

## PAY OF EMPLOYEES.

H. J. Res. 407. Joint resolution authorizing the payment of salaries of officers and employees of Congress for December, 1920, on the 20th day of said month, was read twice by its title and referred to the Committee on Appropriations.

Mr. WARREN subsequently said: From the Committee on Appropriations I report back favorably without amendment the joint resolution (H. J. Res. 407) authorizing the payment of the salaries of officers and employees of Congress for December, 1920, on the 20th day of said month, and I ask unanimous consent for its present consideration.

There being no objection, the joint resolution was considered as in Committee of the Whole.

The joint resolution was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

## TRANSMITTAL OF EXECUTIVE COMMUNICATIONS.

The VICE PRESIDENT. In order that the Senate may be informed as to certain action taken by the Vice President outside of the Senate I am making this statement. At the Sixtieth Congress the Senate passed the following resolution:

*Resolved*, That no communication from heads of departments, commissioners, chiefs of bureaus or other executive officers, except when authorized or required by law, or when made in response to a resolution of the Senate, will be received by the Senate, unless such communication shall be transmitted to the Senate by the President.

The present occupant of the chair has held that the Senate passed that resolution in conformity to the clause of the Constitution of the United States which provides that among other duties of the President—

He shall from time to time give to the Congress information of the state of the Union, and recommend to their consideration such measures as he shall judge necessary and expedient.

Certain solicitors of various departments of the Government have disagreed with the Vice President to the extent of saying that the resolution adopted in the Sixtieth Congress only applied to the Sixtieth Congress. Various departments and bureaus are constantly sending to the Vice President recommendations as to what the Congress should or should not do, without submitting the same to the President of the United States. I am holding that they have no right to do that, regardless of a resolution of the Senate of the United States; that the legislation of the United States of America originates in either the Senate or the House and that recommendations with reference to such legislation must come either from or through the President of the United States.

If the Senate is of the opinion that the ruling of the Vice President is wrong, there are a number of matters that can be handed down.

Mr. POINDEXTER. Mr. President, as a matter of parliamentary information, do I understand that the resolution to which the Vice President refers applies to resolutions passed by the Senate and addressed to the head of a department?

The VICE PRESIDENT. Certainly not. I read the resolution. It provides that nothing shall be received except through the President, unless in response to a resolution of the Senate or in accordance with law.

Mr. POINDEXTER. So that a resolution of the Senate addressed to the head of a particular department would be an exception to the general rule?

The VICE PRESIDENT. Certainly. What the Chair has been ruling, and to which the solicitors of certain departments of the Government are objecting, is that unless the Senate calls for certain information, or unless the law provides that he shall give the information to Congress, if they want legislation here they shall have it submitted by the President of the United States. I think that is in accordance with the Constitution.

I call attention to it so that if Senators think the Chair is in error, the Chair may be corrected and hereafter hand these communications down. I have been sending them back.

Mr. LODGE. Mr. President, I only desire to say, speaking as one Senator, for myself, that I think the Chair's ruling is absolutely correct.

#### PETITIONS AND MEMORIALS.

Mr. McCUMBER presented a petition of the commission of the city of Fargo, N. Dak., praying for the enactment of legislation giving power to the Interstate Commerce Commission to fix the price of coal, which was referred to the Committee on Interstate Commerce.

Mr. KNOX presented a memorial of Charlesville Grange, No. 698, Patrons of Husbandry, of Charlesville, Pa., remonstrating against the enactment of legislation providing for compulsory universal military training, which was referred to the Committee on Military Affairs.

He also presented a memorial of Washington Camp, No. 412, Patriotic Order Sons of America, of Charlesville, Pa., remonstrating against the enactment of legislation providing for compulsory universal military training, which was referred to the Committee on Military Affairs.

He also presented a memorial of Bedford County, Pa., Pomona Grange, No. 24, remonstrating against the enactment of legislation providing for a tax of 1 per cent on all real estate above the value of \$10,000, which was referred to the Committee on Finance.

He also presented a petition of The Neighbors, of Hathboro, Pa., praying for the enactment of legislation providing for the protection of maternity and infancy, which was ordered to lie on the table.

He also presented a petition of the Woman's Club of York, Pa., praying for the enactment of legislation providing for the public protection of maternity and infancy, which was ordered to lie on the table.

He also presented a petition of the Crawford County, Pa., Pomona Grange, No. 26, praying for the enactment of legislation providing for the protection of maternity and infancy, which was ordered to lie on the table.

He also presented memorials of Local Union No. 4716, United Mine Workers of America, of Lilly, Pa.; the Local Union No. 561, United Mine Workers of America, of Shamokin, Pa.; the Local Union No. 3519, United Mine Workers of America, of Bennington, Pa.; the Local Union No. 3772, United Mine Workers of America, of Kittanning, Pa.; and the Local Union No. 2295, United Mine Workers of America, of Curwensville, Pa., remonstrating against the enactment of legislation providing for the parole of Federal political prisoners, which were referred to the Committee on the Judiciary.

Mr. SMITH of Maryland presented a petition of the board of directors of the Chamber of Commerce of Baltimore, Md., praying for the enactment of legislation extending the time for payment of Federal taxes, which was referred to the Committee on Finance.

#### CARE OF DISABLED SOLDIERS.

Mr. WADSWORTH. Mr. President, I present this case to the Senator from Utah: I am in receipt of a report made by the Joint Committee for Aid to Disabled Veterans, sent to me very much in the nature of a petition, and requesting that Congress authorize certain things to be done in the management of hospitals and in connection with the care of disabled veterans, and that certain amendments be made to existing statutes. The subject is one of immense interest to every man who served in the military forces of the United States and to citizens generally. Their request is that I present this matter to the Senate and ask that it be printed in the CONGRESSIONAL RECORD. I therefore ask unanimous consent that that may be done.

Mr. SMOOT. Mr. President, I object.

The VICE PRESIDENT. What can the Chair do about the matter?

Mr. SMOOT. Let it go to a committee.

Mr. WADSWORTH. It can go to several committees.

The VICE PRESIDENT. Objection is made.

Mr. WADSWORTH. I present it, in any event, and ask that it be noted in the RECORD.

The VICE PRESIDENT. The matter referred to by the Senator from New York, in the nature of a petition, will be received and referred to the Committee on Military Affairs.

#### REPORT ON HOUSING CONDITIONS.

Mr. CALDER. Mr. President, the select committee appointed by the Senate under Senate resolution 350 to inquire into the country's housing conditions and matters of fuel, transportation,

and thrift as they relate to housing, submits a preliminary report (No. 666) thereon.

The committee has visited many of the principal cities of the country and has made a careful survey of conditions. It has found that there really exists a critical nation-wide housing shortage, brought about to a very material extent by interference of the Federal Government during the war. While helpful Federal action is necessary and should be taken, it should be in the nature of providing facilities rather than subsidies.

Profiteering has been rampant and must be eliminated, and the committee believes that actual costs of production may be reduced through improvement of national facilities, notably fuel and transportation. The committee believes that the activities of the Interstate Commerce Commission must be directed toward regulation of the railroads rather than of industry in general. Existing conditions in the production and distribution of fuel, a most important basic factor, must be corrected. Labor efficiency may be materially improved. Capital will invest in construction work when it becomes a paying proposition, unless driven away by taxation, which therefore becomes an important factor.

The committee is preparing and will soon submit and urge early favorable action upon measures in line with its recommendations, which are based upon careful study of the whole situation. Its present report is, in a sense, an introductory one. The committee has in course of preparation detailed statements on the various factors entering into present conditions, and more particularly for the preparation of the measures referred to.

I ask that the report be printed, with a report of Senators KENYON and EDGE, two members of the committee, which I file herewith.

The VICE PRESIDENT. Without objection, it is so ordered.

Mr. CALDER. From the Committee to Audit and Control the Contingent Expenses of the Senate I report back favorably Senate resolution 392, authorizing the committee which has just reported to employ counsel. I ask unanimous consent for its present consideration.

The VICE PRESIDENT. The resolution will be read.

The resolution (S. Res. 392) was read, as follows:

*Resolved*, That the resolution of the Senate, No. 350, agreed to April 17, 1920, authorizing a special committee of the Senate to investigate the existing situation in relation to the general construction of houses, manufacturing establishments, and buildings, and the effect thereof upon other industries and upon the public welfare, be, and the same is hereby, amended to empower said special committee to employ counsel, to be paid from the contingent fund of the Senate.

The VICE PRESIDENT. The Senator from New York asks unanimous consent for the present consideration of the resolution. Is there any objection?

Mr. CURTIS. Mr. President, I object to its present consideration.

The VICE PRESIDENT. Objection is made. The resolution will be placed on the calendar.

#### BILLS AND JOINT RESOLUTIONS INTRODUCED.

Bills and joint resolutions were introduced, read the first time, and, by unanimous consent, the second time, and referred as follows:

By Mr. MOSES:

A bill (S. 4635) granting a pension to Charles F. Burleigh (with accompanying papers); to the Committee on Pensions.

By Mr. DIAL:

A bill (S. 4636) to amend section 5 of the United States cotton-futures act, approved August 11, 1916, as amended; to the Committee on Agriculture and Forestry.

By Mr. FERNALD:

A bill (S. 4637) for the relief of Griffith L. Johnson (with accompanying paper); to the Committee on Claims.

By Mr. CHAMBERLAIN:

A bill (S. 4638) to provide for the relief of certain officers of the Naval Reserve Force, and for other purposes; to the Committee on Naval Affairs.

Mr. JONES of Washington. I introduce a bill sent by the Department of Commerce, to distribute the commissioned line and engineer officers of the Coast Guard in grades in the same proportions as provided by law for distribution in grades of commissioned line officers of the Navy, and for other purposes. It is to meet the views of the department. I introduce it so that it may be referred to the committee and have consideration.

By Mr. JONES of Washington:

A bill (S. 4639) to distribute the commissioned line and engineer officers of the Coast Guard in grades in the same proportions as provided by law for the distribution in grades



of commissioned line officers of the Navy, and for other purposes; to the Committee on Commerce.

Mr. JONES of Washington. At the request of the Water Power Commission, I present a bill amending the water-power act, giving them authority to employ additional help, which they claim is absolutely necessary under the terms of the act as passed, to carry out the purposes of the act.

By Mr. JONES of Washington:

A bill (S. 4610) to amend section 2 of an act entitled "An act to create a Federal Power Commission; to provide for the improvement of navigation, the development of water power, the use of the public lands in relation thereto; and to repeal section 18 of the river and harbor appropriation act approved August 8, 1917, and for other purposes," approved June 10, 1920; to the Committee on Commerce.

By Mr. KENDRICK:

A bill (S. 4641) to provide for reimbursement for irrigation systems constructed on the Wind River Reservation, Wyo.; to the Committee on Indian Affairs.

By Mr. FLETCHER:

A bill (S. 4642) to increase the pensions of surviving soldiers of the various Indian wars (with accompanying papers); to the Committee on Pensions.

By Mr. KENYON:

A bill (S. 4643) to amend an act entitled "An act to provide for vocational rehabilitation and return to civil employment of disabled persons discharged from the military or naval forces of the United States, and for other purposes," approved June 27, 1918, as amended by the act of July 11, 1919; to the Committee on Education and Labor.

By Mr. DILLINGHAM:

A bill (S. 4644) to provide for the establishment of Battell National Park, in the State of Vermont; to the Committee on Public Lands; and

A bill (S. 4645) to authorize the Commissioners of the District of Columbia to close upper Water Street between Twenty-first and Twenty-second Streets NW.; to the Committee on the District of Columbia.

By Mr. SUTHERLAND:

A bill (S. 4646) granting a pension to Maggie B. Sullivan; to the Committee on Pensions.

By Mr. NELSON:

A bill (S. 4647) granting a pension to Laura Frazier; to the Committee on Pensions.

By Mr. KING:

A bill (S. 4648) to grant citizens of Washington and Kane Counties, Utah, the right to cut timber in the State of Arizona for agriculture, mining, and other domestic purposes; to the Committee on Public Lands.

By Mr. WADSWORTH:

A joint resolution (S. J. Res. 223) authorizing the Secretary of the Treasury to enter into an agreement to lease or to execute lease for hospitals acquired or to be constructed by the State of New York, or other States of the United States of America, for the care and treatment of beneficiaries of the Bureau of War Risk Insurance; to the Committee on Appropriations.

By Mr. CHAMBERLAIN:

A joint resolution (S. J. Res. 224) authorizing the President to invite foreign nations to take part in the Atlantic-Pacific Highways and Electrical Exposition at Portland, Oreg., in 1925; to the Committee on Foreign Relations.

#### REDUCTION OF NAVAL ARMAMENT—DISARMAMENT.

Mr. BORAH. I introduce a joint resolution which I ask may be read and referred to the Committee on Foreign Relations.

The joint resolution (S. J. Res. 225) authorizing the President of the United States to advise the Governments of Great Britain and Japan that the Government of the United States is ready to take up with them the question of disarmament, etc., was read the first time by its title and the second time at length and referred to the Committee on Foreign Relations, as follows:

Whereas a representative and official of the Japanese Government has advised the world that the Japanese Government could not consent even to consider a program of disarmament on account of the naval building program of the United States; and

Whereas by this statement the world is informed and expected to believe that Japan sincerely desires to support a program of disarmament, but can not in safety to herself do so on account of the attitude and building program of this Government; and

Whereas the only navies whose size and efficiency requires consideration on the part of this Government in determining the question of the size of our Navy are those of Great Britain and of Japan, two Governments long associated by an alliance; and

Whereas the United States is now and has ever been in favor of a practical program of disarmament: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President of the United States is requested, if not incompatible with the public inter-

ests, to advise the Governments of Great Britain and Japan, respectively, that this Government will at once take up directly with their Governments and without waiting upon the action of any other nation the question of disarmament, with a view of quickly coming to an understanding by which the building naval programs of each of said Governments, to wit, that of Great Britain, Japan, and the United States, shall be reduced annually during the next five years 50 per cent of the present estimates or figures.

Second, that it is the sense of the Congress, in case such an understanding can be had, that it will conform its appropriation and building plans to such agreement.

Resolved further, That this proposition is suggested by the Congress of the United States to accomplish immediately a substantial reduction of the naval armaments of the world.

#### DISTRICT OF COLUMBIA CORPORATIONS.

Mr. POMERENE. I ask that the Committee on Corporations Organized in the District of Columbia be discharged from the further consideration of the bill (H. R. 5416) to authorize corporations organized in the District of Columbia to change their names, and that the bill be referred to the Committee on the District of Columbia.

I make this request for this reason: This bill has passed the House. I am advised that, perhaps at the previous session, a similar bill was considered by the District of Columbia Committee and passed by the Senate.

The VICE PRESIDENT. Without objection, the change of reference will be made.

#### THE DADE MASSACRE.

Mr. FLETCHER. Mr. President, on the 28th of December, 1835, there occurred at a place about a mile and a half southwest of what is now Bushnell, Fla., one of the most disastrous battles in the history of our Army—the numbers involved on both sides considered. It was what is known as the Dade massacre, where an entire command of the Regular Army of the United States, except only three privates, was wiped out. The command was that of Maj. Francis L. Dade. The troops, composed of 8 officers and 101 noncommissioned officers and men, were proceeding from Tampa to Fort King, near Ocala, Fla., when a superior force of Indians, which was concealed in the palmettos and grass near by, suddenly and unexpectedly attacked them; and although there were extraordinary courage and fortitude displayed on the part of the United States troops, they were slaughtered and only three privates out of the whole command escaped. Even that was almost miraculous, for they themselves were severely wounded and were supposed to have been killed.

There has been written an article on this subject by Mr. Fred Cubberly, a prominent attorney of Gainesville, Fla., and formerly United States district attorney for the northern district of Florida, who has visited the ground and studied the reports and the records and maps. I think it is due to the truth of history and for the preservation of our records that this article, entitled "The Dade Massacre," be printed as a public document, and I am offering a resolution providing that the paper, which is condensed and not very long, which, as I have stated, has been written by Mr. Cubberly, be printed as a public document, together with the maps and illustrations. These grounds ought to be made a national park and a suitable monument should be erected where this battle took place. I ask that the resolution may be referred to the Committee on Printing.

The resolution (S. Res. 406) submitted by Mr. FLETCHER was read and referred to the Committee on Printing, as follows:

Resolved, That the accompanying paper, entitled, "The Dade Massacre," by Fred Cubberly, together with the accompanying maps and illustrations, be printed as a public document.

#### IMPORTATIONS OF WHEAT.

Mr. McCUMBER. I ask to have printed in the RECORD a short statement published in the Washington Star of last evening in regard to Canadian wheat importations into the United States. It relates to a most vital problem. I desire to call the attention of Senators to the pertinent fact that we passed a joint resolution yesterday seeking in some way to dispose of our surplus American wheat. I hope that some good will come of that measure, but I do not understand what good can come of it until we cease importing wheat from Canada. The article in the Star states:

Since December 1 the shipments have been remarkable. Within 24 hours 15 vessels laden with wheat left Fort William, Ontario, for United States ports.

In political circles in Ottawa there is no surprise at the unprecedented shipments. It is stated that "more than twenty times as much wheat has been sent from Fort William and Port Arthur, the principal Canadian points of shipment, to the United States, than was sent last year."

Reports a few days since indicate over 72,585,000 bushels of wheat received at elevators at Fort William and Port Arthur; 45,420,000 bushels have been shipped to the United States, and it is prophesied that there will be considerable in addition to this.

The 45,000,000 bushels already dispatched to Buffalo or other southern ports take no account of the enormous shipments that have gone forward since December 3, up to which date the records were available. Five million bushels still can be placed aboard vessels now lying in harbor, and before navigation closes Canada will have sent to the United States ports, through elevators here, about 56,000,000 bushels of wheat.

I call the attention of Senators to the fact that the wheat crop of 1920 in the United States is about 750,000,000 bushels. It will take at least 650,000,000 bushels of wheat for bread and seed for the American people. That will not leave more than 100,000,000 bushels of the American grain for export.

We are exporting, as I am informed, quite heavily at the present time, but if we could stop imports in a month the price of American wheat would be as high as it was a year ago, in my opinion, because there would be a shortage. If we can not do that, we shall have to take care of 200,000,000 bushels of Canadian wheat in the United States, which will complicate matters. I present the article and ask that all of it may be printed in the RECORD, in the hope that it will reach the other House as well, which has original jurisdiction, or, at least claims it, in such matters.

Mr. SMOOT. Mr. President, the Senator has read the substance of the article. At the last session of Congress it was decided that no more editorials from newspapers or magazines should be printed in the RECORD, and I ask the Senator now, in view of that fact, to withdraw his request.

Mr. McCUMBER. Mr. President, such articles are constantly printed in the RECORD. I could have read the whole article, but it is very short, and I hope the Senator will not object.

Mr. SMOOT. Mr. President, so that it will not be claimed that any favoritism is being shown, I will now make it known that I intend to object to placing in the RECORD any editorial or articles from newspapers and magazines of any kind in accordance with the sentiment expressed by the Senate at the last session.

Mr. McCUMBER. As I remember, that objection was overruled, and during all of the last session, in the latter part of the session at least, there was not a single instance where anything presented was not allowed to go in. This is such an important matter that we will lose no time if the remainder of the article, in addition to what I have quoted, may go into the RECORD. I hope the Senator will not oppose my request.

Mr. SMOOT. I give notice that from now on I shall object to the printing in the RECORD of any matter from newspapers and magazines, and if such matter goes in it will only be after my objection has been overruled.

Mr. McCUMBER. I should like to give notice that very little attention will be paid to it.

Mr. SMOOT. That may be true.

The VICE PRESIDENT. The Chair has heard the same suggestion before. Is there objection to the request of the Senator from North Dakota?

There being no objection, the article was ordered printed in the RECORD, as follows:

CANADIAN WHEAT IS RUSHED TO UNITED STATES—SHIPMENTS IN LARGE QUANTITIES DUE TO EXPECTED TARIFF LAW CHANGES.

[Special dispatch to The Star.]

OTTAWA, December 13.

Anticipating legislation at Washington which may either put an embargo on or considerably raise the tariff on Canadian wheat, enormous shipments are being made from Canadian points to United States points, particularly to Buffalo and Duluth.

Since December 1 the shipments have been remarkable. Within 24 hours 15 vessels laden with wheat left Fort William, Ontario, for United States ports.

In political circles in Ottawa there is no surprise at the unprecedented shipments. It is stated that "more than twenty times as much wheat has been sent from Fort William and Port Arthur, the principal Canadian points of shipment, to the United States than was sent last year."

OTTAWA NOT SURPRISED.

The heavy movements of wheat from Fort William to the United States have occasioned no surprise to Government officials here, in view of the approaching close of navigation, the possibility of a duty being imposed on Canadian wheat by the United States, and the fact that the wheat movement this year has been largely an over-the-border movement. This has been largely because the allied governments have not been in the market for Canadian wheat and the British market has absorbed but little of the Canadian product up to the present time. The heavy movement by rail from prairie points to the United States ports, more particularly Duluth, was emphasized at a recent sitting of the railway board, when the request of the Winnipeg Grain Exchange for a ruling providing for the payment of the Canadian part of the international rate in Canadian instead of American currency was considered.

Reports a few days since indicate over 72,585,000 bushels of wheat received at elevators at Fort William and Port Arthur; 45,420,000 bushels have been shipped to the United States, and it is prophesied that there will be considerable in addition to this.

The 45,000,000 bushels already dispatched to Buffalo or other southern ports takes no count of the enormous shipments that have gone forward since December 3, up to which date the records were available. Five million bushels still can be placed aboard vessels now

lying in harbor, and before navigation closes Canada will have sent to United States ports through elevators here about 56,000,000 bushels of wheat.

WATCHING WASHINGTON.

Canadian farmers and grain exporters are closely watching Washington. The Montreal Gazette comments as follows on the intentions of Mr. HARDING, Representative STEENSON, and others:

"When the presidential election campaign was in progress in the United States and Republican speakers, Mr. HARDING included, were promising an upward revision of the customs tariff, one of the commodities mentioned specifically was wheat. That meant Canadian wheat. The Republican sweep which followed provides the opportunity for making good these promises, and there is no reason to believe that they will not be carried out. Competent judges of international trade conditions and movements in this country look for the imposition by the United States of a wheat duty amounting to 25 cents or thereabout. Their expectation is more than likely to be realized. Representative HALVOR STEENSON of Minnesota, Republican, has already prepared to put before Congress bills which will provide, among other things, for a duty of 30 cents per bushel on wheat and \$1.80 per barrel on flour."

MOVE MAY BE TOO LATE.

It is thought that any move at Washington will come too late for this year. Apparently Canada has been able to sell to the States on an even larger scale than this country sold to the allied Governments during the war. It is claimed in Toronto that there is nothing very unusual in the large shipments.

It was natural to suppose that, under existing circumstances, a considerable portion of it might be for sale to American dealers, but, on the other hand, it was to be remembered that in normal years two-thirds of Canada's export of wheat had been through United States ports. During the war this was not possible. Wheat shipped to Buffalo and other United States points, designed for export to Europe, might later be taken out of bond and sold to American buyers.

The VICE PRESIDENT (at 12 o'clock and 40 minutes p. m.). The morning business is closed.

ASSOCIATION OF PRODUCERS OF AGRICULTURAL PRODUCTS.

Mr. NELSON. I ask unanimous consent that the Senate proceed to the consideration of House bill 13931, a bill to authorize association of producers of agricultural products. It is the bill to which I referred briefly in my discussion of the joint resolution that we passed yesterday.

The VICE PRESIDENT. Is there any objection? The Chair hears none.

The Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. 13931) to authorize association of producers of agricultural products, which had been reported from the Committee on the Judiciary, with amendments.

Mr. NELSON. I ask that the formal reading of the bill may be dispensed with, and that it may be read for amendment.

Mr. UNDERWOOD. Mr. President, will the Senator allow the bill to be read for the information of the Senate? Some of us are not familiar with it.

Mr. NELSON. Yes, sir.

The VICE PRESIDENT. The bill will be read.

The Assistant Secretary read the bill, as follows:

Be it enacted, etc., That persons engaged in the production of agricultural products as farmers, planters, ranchmen, dairymen, or fruit growers may act together in associations, corporate or otherwise, with or without capital stock, in collectively processing, preparing for market, handling, and marketing in interstate and foreign commerce, such products of their members; and such producers may organize and operate such associations and make the necessary contracts and agreements to effect that purpose, any law to the contrary notwithstanding: *Provided, however,* That such associations are operated for the mutual benefit of the members thereof, as such producers, and conform to one or both of the following requirements:

First. That no member of the association is allowed more than one vote because of the amount of stock or membership capital he may own therein, or.

Second. That the association does not pay dividends on stock or membership capital in excess of 8 per cent per annum.

Sec. 2. That if the Secretary of Agriculture shall have reason to believe that any such association restrains trade or lessens competition to such an extent that the price of any agricultural product is unduly enhanced by reason thereof, he shall serve upon such association a complaint stating his charge in that respect, to which complaint shall be attached, or contained therein, a notice of hearing, specifying a day and place not less than 30 days after the service thereof, requiring the association to show cause why an order should not be made directing it to cease and desist from so restraining trade or lessening competition in such article. An association so complained of may at the time and place so fixed show cause why such order should not be entered. The evidence given on such a hearing shall be reduced to writing and made a part of the record therein. If upon such hearing the Secretary of Agriculture shall be of the opinion that such association restrains trade or lessens competition to such an extent that the price of any agricultural product is, or is about to become, unduly enhanced thereby, he shall issue and cause to be served upon the association an order reciting the facts found by him directing such association to cease and desist therefrom. If such association fails or neglects for 30 days to obey such order, the Secretary of Agriculture shall file in the district court in which such association has its principal place of business a certified copy of the order and of all the records in the proceeding, together with a petition asking that the order be enforced, and shall give notice to the Attorney General and to said association of such filing. Such district court shall thereupon have jurisdiction to affirm, set aside, or modify said order, and may make rules as to pleadings and proceedings to be had in considering such order.

The facts found by the Secretary of Agriculture and recited as set forth in said order shall be prima facie evidence of such facts, but either party may adduce additional evidence. The Department of Justice shall have charge of the enforcement of such order. After the



order is so filed in such district court and while pending for review the district court may issue a temporary writ of injunction forbidding such association from violating such order or any part thereof. The court may upon conclusion of its hearing enforce such order by a permanent injunction or other appropriate remedy. Service of such complaint and of all notices may be made upon such association by service upon any officer or agent thereof engaged in carrying on its business, and such service shall be binding upon such association, the officers, and members thereof: *Provided*, That nothing contained in this section shall apply to the organizations, or individual members thereof, described in section 6 of the act entitled "An act to supplement existing laws against unlawful restraints and monopolies, and for other purposes," approved October 15, 1914, known as the Clayton Act.

Mr. KING. Mr. President, I regret being absent from the Chamber when the Senator from Minnesota [Mr. NELSON] made his request for consideration of this bill. The measure is so important and so few Senators have had an opportunity to examine it that I should have requested the Senator to defer its consideration until to-morrow, and if he had declined to accede to such request I should have objected to its consideration at this time.

Mr. NELSON. Mr. President, will the Senator yield to me?

Mr. KING. I yield.

Mr. NELSON. If the Senator had made an objection I should have followed my request with a motion to proceed to the consideration of the bill.

Mr. KING. The Senator, of course, could have made that motion, and I presume his motion would have prevailed, but I appeal to the Senator to let the discussion of this measure go over until to-morrow, merely for the purpose of permitting Senators an opportunity to acquaint themselves with its provisions and to obtain a clear perception of its purposes, and if enacted into law its consequences. I am not opposing the bill, because it may have such merits as to warrant its passage; but it is apparent from a casual examination of the bill that it modifies in a very material manner the Sherman antitrust law and seeks to prescribe a rule of conduct with reference to a large portion of our population, which is not to be applicable to other classes and portions of our citizenship. I have had time to examine, and that in a very hurried manner, only the House bill, and have not had the opportunity to examine the Senate bill. My understanding is that this bill seeks to legalize all forms of combination upon the part of agricultural producers—planters, ranchmen, dairymen, and fruit growers—for the purpose of enabling them to deal with their products in a collective manner and through the instrumentality of combinations and organizations. Not only that; it provides, as I interpret the measure, that they shall not only be permitted to combine for the purpose of marketing their products, but for the purpose of holding them for an indefinite period in order to secure higher prices, even though such action might constitute a monopoly or restrain trade or be destructive of competition.

Moreover, the bill provides that such associations may combine for the purpose of preparing their products for market, and also for the purpose of handling the same, and they may likewise "process" such products. The word "process," I presume, comprises all steps necessary to convert the raw materials into finished products. It would seem that a measure so important, which on its face relieves many of our population from the operation of existing law and legalizes what some might denominate as monopolies and combinations in restraint of trade, should receive the most serious consideration at the hands of this body. I am expressing no opinion as to the merits of this measure. Indeed, there is very much in the bill which appeals to my sympathetic consideration. It is a matter of common knowledge that combinations in restraint of trade and monopolies which have grown so powerful as to almost destroy competition have operated in our country for many years, notwithstanding the Sherman law, the Clayton Act, and the Federal trade law. It has been difficult to frame a law to meet our industrial and economic conditions and to curb profiteering and to prevent the formation of corporations which aimed at the destruction of competition and the maintenance of prices so high as to operate oppressively upon the people.

The farmers have been the victims of trusts and conspiracies to restrain trade and commerce. They, more than any other class, have suffered from unscientific, absurd, and repressive tariff measures which from time to time have been enacted by Congress. I have no hesitancy in saying that if combinations are to be permitted there is far greater reason why farmers should be permitted to organize for the handling of their products than any other class of producers. It is merely stating an axiom when I repeat that our prosperity rests upon agriculture. Jefferson, in his all-comprehensive political papers, pointed to the importance of agricultural development and evinced the utmost solicitude for the welfare of all who were engaged in agricultural pursuits. Important as manufacturing enterprises may

be, they are not so vital to the welfare of the Nation as agriculture. Of course, it would be a narrow and incorrect position to assume that there is not a most intimate relationship between agricultural interests and manufacturing interests.

Our agricultural products are greatly in excess of the needs of the agriculturists, who must find markets for their products, both domestic and foreign. It is important that a domestic market should be developed for agricultural products, and therefore we are keenly interested in the development of manufacturing enterprises as well as all other industries that contribute to the material advancement of our country. I am entirely in sympathy with the proposition that the classes referred to in this bill should have fair opportunity to associate in order to "market" their products. If there is to be any class legislation, my inclinations would irresistibly lead me to extend preferential legislation to the agriculturists. However, class legislation is open to serious objection. This bill seems to be subject to the criticism that it is class legislation and seeks to extend benefits and immunities from the provisions of existing law to one class only of our citizens. There may be justification for such legislation, and yet I think we should have full opportunity to consider this question, and, as I suggested at the outset, determine just how far this measure goes, and in its operations just what results would be realized.

Mr. McCUMBER. Will the Senator allow me a question?

Mr. KING. Yes; certainly.

Mr. McCUMBER. I ask the Senator if he thinks the action of the California Fruit Growers' Association, for instance, in advising the fruit growers to raise a kind of fruit which would be marketed at such a time as would not conflict with the fruit grown in Florida, would be guilty of an offense against the Sherman antitrust law; or if they advise, under the present situation, to withhold their products from market for better prices, or until the products have been sold in other sections of the country, would be a violation of any antitrust law?

Mr. KING. I think not.

Mr. McCUMBER. If that be true, then I can not see how this bill could in any way affect the question of the violation of the antitrust law.

Mr. KING. The Senator may place a different interpretation upon the bill before us than I do. The bill, as I construe it, goes further than the Senator's question would indicate. Certainly, there could be no impropriety in agriculturists doing the things pointed out in the Senator's inquiry. This measure, however, authorizes additional proceedings upon the part of the classes who are to secure its benefits; for instance, as I understand, the bill authorizes agriculturists to combine and to form corporations not only for the purpose of marketing their products, which are to enter into interstate and foreign commerce, but they may make contracts and agreements between themselves and between other corporations and combinations within the classes referred to, to "prepare" their products for market, and to "handle" them, and to "process" them. Under this authority it would seem that those forming the combinations and corporations and operating under agreements could withhold their products from market for an indefinite period. They could erect warehouses and store their products in order to force higher prices. They could form factories for the purpose of "processing" their products. They would be permitted to erect storehouses in which to keep their agricultural products, and warehouses within which to store the finished or "processed" products. These combinations or associations might take the form of monopolies, not only in production but in "processing," in handling, and in placing the product, raw or finished, upon the market. It would seem that the power of combination is unrestricted and subject only to the regulation, which is not very complete, of the Federal Trade Commission.

I suggest that under the first section of the bill the right seems to be given to such combinations and associations to fix prices for all products, whether raw or finished. There is nothing in the bill, it would seem, to prevent the classes referred to from erecting mills for the purpose of making flour and from withholding flour from the market for indefinite periods in order to enhance prices. I think it can be reasonably contended that this bill would authorize the manufacture of all sorts of products, from cereals to dehydrated and prepared and preserved fruits, as well as the productions of planters, ranchmen, and dairymen. The ranchmen produce meats. They would be permitted, it would seem, the right to build packing houses to care for their products, hold them in storage, fix prices, and form combinations that would be restrictive of trade and, possibly, destructive of competition. It seems obvious that the bill contemplates combinations and organizations to perform



many of the things to which I have just referred, and it is presumed that such combinations would engage in such transactions as might restrain trade or lessen competition.

Accordingly, the bill provides, as amended by the Senate committee, that the Federal Trade Commission may investigate conditions where they have reason to believe that such combinations and associations restrain trade or lessen competition to such an extent that the price of any agricultural product is unduly enhanced by reason thereof. After certain proceedings are had, if violations of the provisions of the act are found, an injunction may issue to restrain further restraint of trade or interference with competition. It may be argued that this bill, therefore, legalizes combinations by the classes mentioned in the bill, that such combinations so legalized may restrain trade and lessen competition; providing, however, that the restraint of trade or the lessening of competition shall not unduly enhance the price of the product, and that if notwithstanding there should be such restraint of trade and lessened or destroyed competition no criminal punishment would result.

Mr. McCUMBER. Mr. President—

Mr. KING. Just let me suggest to the Senator these questions: What is undue enhancement? What is a lessening of competition? How is the commission to determine these matters? Does not this involve the question of the determination of what are "reasonable profits," and does that not involve an examination of the capital invested, the questions of labor, and all cognate matters connected with the all-embracing question of production and distribution? I inquire, is there not danger in legalizing combinations in restraint of trade and organization to lessen or diminish competition? I further inquire whether this bill is not an attack upon our economic and industrial system? May it not be argued that this bill presages the entire repeal of the antitrust law, and the establishment of a huge bureaucracy under which all interstate business will be compelled to operate? If monopolies may be authorized and restraints of trade and the interruption of competitive forces be legalized by law, will it not be contended that a licensing system must logically follow; and, if a licensing system controlled by the Government is put into operation, will it not be earnestly insisted that all corporations engaged in interstate commerce must obtain Federal charters? Of course, it would follow, logically, that if Federal charters are to be granted to corporations the control of securities must be regulated by the General Government.

I venture to inquire whether or not this legislation may not pave the way for the Federal control of all lines of business interstate in character. Is that what is desired? Many have believed that there has been too much Government in private affairs and that the interests of the people would best be subserved if there were less paternalism and more individualism. This legislation is so important as to demand most serious consideration at our hands. We should consider the question as to the effect of class legislation. If ranchmen and dairymen are to be exempt from general statutes, and may form combinations, will not manufacturers and those engaged in mining and other enterprises claim like privileges? Will not legislation of this character lead to the complete overthrow of the Sherman antitrust law and all demands upon the part of the Government to prevent, through penal statutes, monopolies and conspiracies in restraint of trade and combinations to destroy competition?

Mr. McCUMBER. If the Senator will allow me, I do not like that section at all. I would have it out entirely, so that there would be no restraint whatever, because I think it is impossible for the agriculturists of the entire country, all of the food producers, so to combine as to prevent the sale of their products at a reasonable price. But the things which the Senator enumerated as things which might be contrary to the antitrust law are the very things which are being done and have been done for years by the California Fruit Growers' Association, and by certain dairy associations in the United States, and I have never known a time in which they have unduly enhanced the price of agricultural products.

Mr. KING. May I suggest to the Senator that I am advised a prosecution is now pending against the raisin combination which was formed in the State of California? I understand the facts to be, in brief, that the producers of grapes formed an association by means of which they control all of the grapes of California. They control the raisin crop, and they have advanced the price more than 300 per cent. They have a monopoly of the raisin industry, and so powerful is this monopoly that it fixes prices and holds the country, so far as raisins are concerned, in its grasp. Complaints have been made by the victimized public, and its activities have brought it under the eye of the Federal Government.

Mr. McCUMBER. I do not wish to take up the time of the Senator from Minnesota [Mr. NELSON], but I wanted to get a clear and explicit statement from the Senator as to whether he thought that an advice given by all the farmers' organizations that they hold their wheat until it reaches \$1.90 a bushel before they should sell would be against the Sherman antitrust law?

Mr. KING. I do not think so.

Mr. McCUMBER. If they obeyed it, it would not be contrary to the antitrust law.

Mr. KING. But let me ask the Senator whether, if what I have stated concerning the raisin organization should be literally true, he would justify its course?

Mr. McCUMBER. I think I would. I do not know the facts, but I know that for a number of years they did not even get living prices for their raisins, and if they should get good prices for a year or two I certainly should not object to it. I do not think that it is against the antitrust law if they attempt to raise the price to an extent that would cover some of the previous years' losses. But I do not know the facts in the case.

Mr. UNDERWOOD. Mr. President, I am not on the committee having this bill in charge, and I do not thoroughly understand the purpose of the bill. I would like to have some explanation of it before we vote on it.

I do not know, from reading the bill over, whether it is a bill intended to further restrain the agricultural interests of the country from making combinations, or whether it is an attempt to liberalize the provisions of existing law. As I understand it, under the interpretation of the Supreme Court of the United States, the so-called Sherman law only restrains combinations where they attempt, by the combination, to so enhance prices that it creates a monopoly. The mere question of the forming of an organization does not create a monopoly, but subsequent to their organization it is the action of that body, as interpreted by the rule of reason, which Chief Justice White applied in one of the trust cases.

I do not see anything in the provisions of this bill which does not continue to apply the rule of reason to these organizations. I may be wrong. I am not on the committee having the bill in charge, and the object of my statement is to try to get light. After providing for a hearing before the Secretary of Agriculture, as the bill provides, and before the Federal Trade Commission, as an amendment of the committee will provide, it says:

If upon such hearing the Federal Trade Commission shall be of the opinion that such association restrains trade or lessens competition to such an extent that the price of any agricultural product is, or is about to become, unduly enhanced thereby, it shall issue and cause to be served upon the association an order rectifying the facts found by it, directing such association to cease and desist therefrom.

Where the distinction is between that clause and the interpretation of the Supreme Court in the antitrust cases I do not see, because the antitrust law, under the decision of the Supreme Court of the United States, is bound down by the rule of reason, as Chief Justice White applied it in one of the leading cases, and it seems to me it was not the fact of a combination or an organization that was the important part in an antitrust case. It is a question as to whether the action of that combination is so much in restraint of trade that it has the effect of enhancing prices and is injurious.

Mr. STERLING. Mr. President—

The VICE PRESIDENT. Does the Senator from Alabama yield to the Senator from South Dakota?

Mr. UNDERWOOD. I yield.

Mr. STERLING. I merely wish to submit this question, Does not the Senator think that the rule of reason, as announced by Chief Justice White, is involved in the very language of the bill providing that the price of products shall not be unduly enhanced by reason of this arrangement?

Mr. UNDERWOOD. The Senator refers to the first clause of the bill, which provides that under this act the price of agricultural products shall not be unduly enhanced. If they are not unduly enhanced by the organization, I do not see, to save my life, where they are in violation of the Sherman antitrust law. Then to make sure that it does not affect that law, I see that the committee proposes this amendment as a substitute for a provision which is already in the bill:

Nothing herein contained shall be deemed to authorize the creation of, or attempt to create, a monopoly, or to exempt any association organized hereunder from any proceedings instituted under the act entitled "An act to supplement existing laws against unlawful restraints and monopolies, and for other purposes," approved October 15, 1914, on account of unfair methods of competition in commerce.

In other words, the so-called Clayton Act, which supplemented the Sherman Act,



Mr. NELSON. Will the Senator yield to me for a moment?  
Mr. UNDERWOOD. Certainly.

Mr. NELSON. In addition to the antitrust law to which the Senator has referred, we passed the Federal Trade Commission law. That goes further in one respect and covers one point that the antitrust law does not cover. That point is what we call unfair methods of competition. The object of this provision is to preserve that part of the law which we passed creating the Federal Trade Commission. The rest of the bill is substantially in harmony with the decisions of the court in the antitrust cases. The only difference is that here in the first instance a hearing is had before the Secretary of Agriculture or the Trade Commission, as the case may be. They pass upon the question, but that may not settle it. If the parties affected decline to obey the decision of the Trade Commission or the Secretary of Agriculture, they can go into court. The district court has jurisdiction and its jurisdiction will be as great as it would if a complaint were made under the Sherman antitrust law.

Mr. UNDERWOOD. If the Senator will allow me, I am trying to get light on the question. I understand from the bill and from the Senator's statement that there is nothing in the bill which affects the position of these interests in reference to the Sherman antitrust law, that their position is practically identically the same whether the bill passes or not, but that the bill provides a new method of enforcing the law.

Mr. NELSON. Yes.

Mr. UNDERWOOD. That is all it does?

Mr. NELSON. To a large extent.

Mr. UNDERWOOD. If that is the case, I see no objection to it.

Mr. NELSON. If the Senator will allow me further, we have in two instances that I can recall excepted organizations from the effect of the Sherman antitrust law. In the so-called Clayton law we excepted the labor organizations and in the so-called Edge Act which we passed we gave immunity to the corporations that were to engage in foreign trade.

The object of the bill is to allow the various farmers' organizations throughout the country to operate freely, without being directly embarrassed by or having the Department of Justice hold up to them the Sherman antitrust law. Instead of giving them a free hand, as you might say, we provide in the second section that if they go to extremes, if they aim to enhance prices unduly or to create a monopoly, then the matter can be heard before the Secretary of Agriculture or the Federal Trade Commission, as the case may be, and after the Trade Commission or the Secretary has made a decision in the case it can be brought up in the district court of the United States and litigated.

Mr. TOWNSEND. How can it be brought into court?

Mr. NELSON. It can be brought by the association. If the association feel that they are aggrieved by the decision of the Secretary of Agriculture or the Trade Commission, they can bring the case into the district court. If the Secretary of Agriculture or the Trade Commission issues an order and states that they must desist from doing certain things that tend to create a monopoly, and they decline to obey the order, he or it goes into the district court to enforce the order. It is analogous to proceedings which we have under the interstate commerce law. If the railroads are dissatisfied with the action of the Interstate Commerce Commission, they can bring the matter into the district court and have it litigated.

Mr. UNDERWOOD. In other words, as I understand the provisions of the bill and the Senator's explanation, the bill does not materially change the principles involved in the Sherman antitrust law as interpreted by the Supreme Court of the United States, but does affect the method of enforcing the law.

Mr. NELSON. I think the Senator is correct. In its principles it does not change the antitrust law.

Mr. BORAH. Mr. President—

Mr. KING. Will the Senator from Minnesota permit an inquiry?

Mr. NELSON. The Senator from Alabama has the floor.

Mr. UNDERWOOD. I yield the floor. I merely rose for the purpose of getting information.

Mr. KING. I wish to ask the Senator from Minnesota [Mr. NELSON], if the Senator from Idaho [Mr. BORAH] will pardon me, if his last answer is quite accurate? It was, "In its principles it does not change the Sherman antitrust law." If this bill does not exempt the classes mentioned in the bill from the operations of the Sherman antitrust law, is there objection to including in the bill a reference to the Sherman antitrust law? I have just seen the proposed committee amendment, wherein it is stated that the Clayton law is not repealed. If the Sena-

tor's contention is correct, can there be objection to a further provision that the Sherman Act shall not be repealed?

Mr. NELSON. I do not think that is necessary, in view of the provisions of the bill in section 2.

Mr. KING. Then, the Senator thinks, if I understand him—and I am asking this question merely for the purpose of getting the Senator's point of view—that the Sherman antitrust law, in so far as it is operative, and I am not sure what remains in view of the decisions of the Supreme Court, will not affect organizations which the bill contemplates will be effectuated?

Mr. NELSON. Not unless the organization proceeds to create a monopoly or proceeds to unduly and unreasonably enhance prices. That is the rule laid down in section 2 of the bill. If the organization keeps within the pale of that rule, it is immune from prosecution under the antitrust law.

Mr. KING. Suppose this bill becomes a law and organizations were formed under it and there was a conspiracy in restraint of trade upon the part of some or all of them to monopolize a part of the trade or commerce among the several States. Does the Senator think that the Sherman antitrust law would be operative and would reach such organizations?

Mr. NELSON. I think so.

Mr. KING. And that the conspiracy might be punished?

Mr. NELSON. I have not any doubt about it.

Mr. KING. It seems to me that the Senator is in error and that no such construction of this measure is possible.

Mr. THOMAS. May I ask the Senator having charge of the bill whether he believes that under its provisions the cotton growers' association and the wheat growers' association and the dairymen's association and the fruit growers' association could combine?

Mr. NELSON. I did not catch the Senator's question.

Mr. THOMAS. I will try to state it in a different way. Assume that under the bill the wheat growers of Minnesota and the Northwest form an association; in the South there is a cotton growers' association, also formed under the law; in Colorado a fruit growers' association, and elsewhere a dairymen's association. Those are separate associations. Now, under the provisions of the bill, if we enact it into law, can those associations combine into one association?

Mr. NELSON. I do not think so. I do not think that would be a fair construction of the language.

Mr. BORAH. I did not understand the Senator's question.

Mr. THOMAS. The question was whether various associations could combine into one association.

Mr. NELSON. This is the question the Senator from Colorado propounds. There is an association of farmers in Minnesota in respect to the agricultural crops of Minnesota, wheat, we will say. There is an association in Georgia in respect to cotton. These are independent associations. The Senator's question, as I understand it, is whether these two associations, under the provisions of the bill, can combine.

Mr. THOMAS. Yes; could they combine into one huge association?

Mr. NELSON. No; I say they could not. The language of the bill does not warrant that.

Mr. THOMAS. I do not find anything in the language of the bill that prohibits it.

Mr. NELSON. I do not think any fair construction of the language of the bill would embrace it. The language is:

That persons engaged in the production of agricultural products as farmers, planters, ranchmen, dairymen, or fruit growers may act together in associations, corporate or otherwise.

They may act together, but when you go further and ask whether those associations can combine, I do not think that is within the scope of the bill.

Mr. THOMAS. I hope the Senator is correct; but, inasmuch as there are no prohibitive clauses, I am very much afraid that will be one consequence of it.

Mr. KELLOGG. Mr. President, will the Senator yield?

Mr. NELSON. Certainly.

Mr. KELLOGG. May I ask the Senator from Colorado [Mr. THOMAS] if those associations combine for the purpose of having a selling agent to place their products in Europe, would it be objectionable?

Mr. THOMAS. I do not know. That is another proposition. We passed a law during Democratic control of the Congress, as I remember, which suspends or sets aside the operation of all antitrust laws when it comes to associations engaged in international trade and foreign commerce. I have always had the idea that if those combinations were a menace and an injury to us as a Nation, they would be equally dangerous as an international agency.

Mr. KELLOGG. What objection could there be to combinations or associations of farmers for the purpose of having selling agents and better market facilities in the principal cities of the country?

Mr. THOMAS. The Senator is now assuming that I am opposed to the bill. I am asking the question which presents itself to my mind as one of the consequences possible that would bring the matter into disrepute in public opinion.

I will say, if the Senator from Minnesota will permit me for a moment—

Mr. NELSON. Certainly.

Mr. THOMAS. I have been greatly impressed with the usefulness and benefits of the fruit growers' associations in California. It has seemed to me their very success—and perhaps that is the principal reason why the Nonpartisan League has never been able to effectuate any sort of hold in the agricultural and horticultural sections of California—and, I think, the efficiency of the citrus growers' association, taking that as an example, is due to the fact that it acts independently of the raisin producers' association or of the olive growers' association, and so forth. That their distinctive energies, in other words, apply wholly and fully to one product is the secret of their great success. If they were to combine, as they could combine under a bill of this sort, I think they would cease to be popular on the one hand and I am inclined to think that their usefulness would be contracted upon the other.

I can understand how a wheat growers' association could officiate and function under any permissive law that would benefit the wheat market, but I am inclined to think that, in connection with that the southern cotton growers' association should form a combination with it, and then the fruit growers' association would come in, we would be face to face with an association control of agricultural products, and that then there would be a question of monopoly.

Mr. BORAH. I wish to interrupt the Senator.

Mr. THOMAS. I yield to the Senator from Idaho.

Mr. BORAH. I had always supposed there was no doubt that this bill was intended to modify the Sherman antitrust law as to associations of agricultural producers; in fact, that is the argument which has been made in favor of it, so far as the letters which I have received are concerned. If I am mistaken about that, then I have been misled. However, I want to ask the junior Senator from Minnesota [Mr. KELLOGG] a question. Suppose that associations of farmers—the individual associations referred to by the Senator from Colorado [Mr. THOMAS]—should do things which were in contravention of the Sherman antitrust law, could they be prosecuted under that law notwithstanding the fact that we should pass this bill? Would this bill protect them in any way? Does it give them any relief from the Sherman antitrust law?

Mr. KELLOGG. I think it does give them relief from the Sherman antitrust law.

Mr. THOMAS. I think, of course, that is what is intended; but since the decision of the Supreme Court of the United States which imported into the phraseology of the Sherman antitrust law a word which was expressly excluded from it prior to its passage, I have been unable to perceive that it has proven very efficient.

Mr. BORAH. I am rather inclined to agree with the Senator from Colorado. I am very much of the opinion that nobody need be taken from under the Sherman law, for everybody has already been taken out.

Mr. THOMAS. I have no objection to this bill, Mr. President, that I did not urge when the Clayton law was before this body for consideration. I thought then, as I think now, that if we are to have antitrust legislation it should be effective, or at least that it should be so drawn as to tend toward efficiency. I did not think then, and I have never thought since, that we could pass an act which is penal and possibly criminal in its character and expect it to succeed when we exempted two great classes of the American people from its operations. We did that, and this bill is along that same line. I do not see that it changes that situation at all.

We have under the present law a prohibition against everybody and everything except organized workmen and organized farmers. They are especially exempted from the operation of the law, and, so far as that law is concerned, they do as they please. We have gone along three, four, or five years under the operation of that law, with the result that we have just as many monopolies engaged in other pursuits as we had before, plus these privileged classes, who, independently of this measure, can, I think, if they see fit, effectuate their organizations and under that law reach the same result. We are here now concerned, however, in legislating to meet an emergency. As I have heretofore said, both the public and Congress are labor-

ing under a greater or lesser degree of hysteria, and we are therefore apt to do things which the judgment and the verdict of time will not thoroughly approve.

I have no doubt this measure will be followed by legislation placing embargoes upon Canadian wheat, Australian and South American wool, and a number of other products which are imported into this country. Of course, if we are going to embargo one or two of the imports which compete with something which is produced here, we can not very well deny the application of a similar prohibition upon other imports when those who feel that they are damaged by the volume which comes into this country ask for an embargo.

I can see in the immediate future when our Republican friends are in absolute power and pass a prohibitory protection law and then place an embargo upon all these imports, and when, in addition to that, the commercial treaties are revoked, as provided in the Jones navigation bill, that we shall become a nation of sellers; we shall promote our international commerce, and promote it very effectively and enlarge it enormously by insisting that we sell to all the world, but make it impossible for the world to sell anything to us.

Mr. STERLING. Mr. President, just a word or two. I can not quite agree with the theory that the purpose of this bill is to relieve the farmers, the fruit growers, the dairymen, and so forth, of the provisions of the Sherman antitrust law.

Mr. BORAH. Then, what is the object of the bill?

Mr. STERLING. The object is—and I was just about to state it—to make certain that the Sherman antitrust law does not cover associations formed by those engaged in such agricultural industries.

Mr. BORAH. That is exactly what I had supposed.

Mr. STERLING. Yes; to make it certain. There are the fruit growers of California, for example; does the Senator from Idaho believe that they would be liable under the provisions of the Sherman antitrust law and that the Supreme Court would so hold?

Mr. BORAH. Undoubtedly if they should do the things which are prohibited by the Sherman antitrust law they would be liable under it, but this measure takes them from under it; it gives them a status of their own, fixes a different method of proceeding, and absolutely deprives the court, in the first instance, of examining into the question of whether or not they have violated the law.

Mr. President, I did not suppose there was a particle of doubt about that proposition, and the letters which I received were all to the effect that the fruit growers, the farmers, and others could not do business under the Sherman antitrust law. Therefore they wanted it modified.

Mr. STERLING. But they have done business as it is and under the Sherman antitrust law, and there have been no prosecutions, so far as that is concerned.

Mr. BORAH. There have been prosecutions, and they sent me a list of the prosecutions as a reason why they wanted to get from under the law. There have been a number of prosecutions.

Mr. STERLING. That is news to me, I may say. I did not know of any great number of prosecutions; I did not know of any prosecutions, in fact.

Mr. BORAH. When I said "a number," I did not mean a hundred or two hundred, but there have been prosecutions which have disturbed the fruit growers and the farmers. They therefore say, "We want definitely to get from under the Sherman antitrust law."

Mr. STERLING. Mr. President, I should like to ask the Senator from Idaho if there have been any prosecutions of California fruit growers or if any prosecution is now pending or if one has gone to the Supreme Court?

Mr. BORAH. I think so. Of course, Mr. President, in the first place, this matter, if the Senator will permit me, came before the Senate years ago in the nature of an exemption in specific terms of farmers and laborers from the Sherman antitrust law. That has been followed up, and now it is proposed not to exempt them and leave no remedy at all, but to exempt them and provide another tribunal before which they can have their hearings. If this measure does not exempt them from the Sherman antitrust law, the farmers themselves are being fooled, because that is what they want. I have a number of letters, to which I have replied on this very proposition, and which say, "We are in a different position from the Steel Trust and in a different position from this and that industry; we should never have been under the Sherman antitrust law; it was never intended that we should be under the Sherman antitrust law. Now, we want definitely to take ourselves from under the Sherman antitrust law." That is what we are now proposing to do.



Mr. OVERMAN. Mr. President, have not labor and horticultural and agricultural societies been taken from under the terms of the Sherman antitrust law by the so-called Clayton Act?

Mr. BORAH. They think that that exemption is too indefinite. The Senator from South Dakota stated the question exactly as it should be stated, and that is that they want definite and certain information that the Sherman antitrust law does not operate as to them; that it shall not operate as to them. That is the precise position of the farmers, of the laborers, of the fruit growers, and of others interested in this question. I do not say that that is an argument against the bill, but I do say that that is the effect of the bill.

Mr. STERLING. Certainly. Mr. President, my theory was simply this, as I have stated, that the real purpose of this bill was to make it certain that such associations could not be prosecuted under the Sherman antitrust law. It has never yet been decided by the Supreme Court of the United States that they are acting in violation of the Sherman antitrust law, and my proposition is merely that this measure is in the spirit exactly of the Sherman antitrust law as interpreted by the Supreme Court of the United States. The following language:

To such an extent that the price of any agricultural product is unduly enhanced by reason thereof—

brings it exactly within the "rule of reason" first announced by the court. It is not a combination in restraint of trade under the Sherman antitrust law unless the result of the combination is to unduly enhance the price of the product or create a monopoly.

The last provision, being an amendment proposed to the bill by the Judiciary Committee, is as follows:

Nothing herein contained shall be deemed to authorize the creation of, or attempt to create, a monopoly, or to exempt any association organized hereunder from any proceedings instituted under the act entitled "An act to supplement existing laws against unlawful restraints and monopolies, and for other purposes," approved October 15, 1914, on account of unfair methods of competition in commerce.

I think that refers to the Clayton Act.

Mr. KING. Mr. President, will the Senator yield?

Mr. STERLING. I yield.

Mr. KING. If the Senator's statement is accurate, namely, that the bill which is now before us for consideration only brings agricultural associations within the rule announced by the Supreme Court of the United States, and that they may form combinations, and yet, under the interpretation of the Supreme Court of the United States, would not be subject to prosecution, what is the necessity of the bill at all? If there is any necessity, why not state that this act is for the purpose of requiring combinations upon the part of farmers to conform to the "rule of reason" as it has been applied by the Supreme Court of the United States?

Mr. STERLING. We were informed by the Senator from Idaho a while ago, Mr. President, I will say in answer to the Senator from Utah, that prosecutions had been instituted against several such associations; that they are in a state of doubt and uncertainty in regard to the right to form such associations, and hence the necessity of some law that will keep within the provisions of the Sherman antitrust law and yet give them the assurance that they can go ahead and form the associations.

Mr. KING. Will the Senator yield further?

Mr. STERLING. I yield.

Mr. KING. If the Supreme Court of the United States has announced a decision, it is obvious that that decision will prevail and govern the activities of the Department of Justice; and if the Supreme Court of the United States has decided, as the Senator says, that such organizations would not be subject to prosecution so long as they did not unreasonably restrain trade, why should they apprehend prosecution at the hands of the executive department of the Government? If they should be prosecuted, it is obvious, under the interpretation placed by the Senator upon the decision of the Supreme Court of the United States and upon the character of organizations contemplated by this bill, that they would come out of the court without any conviction. So what is the necessity of the legislation, if the Senator's contention is right?

Mr. STERLING. They may come out of the court without any conviction, but it may be a long while before the matter is decided.

Mr. GRONNA. Mr. President—

Mr. STERLING. I yield to the Senator from North Dakota.

Mr. GRONNA. Answering the question of the Senator from Utah, I want to say that a number of persons representing dairying associations have appeared before the Committee on Agriculture and Forestry. We were told that they wanted this proposed law for the reason that they desired to avoid

prosecution, when everybody should know that the members of the association were not violating the law. We were told that the dairymen's associations of Illinois and of Ohio and of Pennsylvania had been prosecuted. I do not say that they had been made to pay a fine or penalized, but they asked for legislation to make it absolutely sure that they would not be put to all this trouble and involved in all this litigation.

Mr. EDGE. Mr. President, may I ask the Senator a question?

Mr. STERLING. I yield for that purpose.

Mr. EDGE. Right in that line—I appreciate that it is somewhat out of order—suppose they were guilty of an infraction of the law, and, as interpreted by the amendment that has been added to the pending measure, that they had taken some action that would be a violation of the Clayton Act. Then does the Senator contend that they should not be prosecuted?

Mr. GRONNA. If they were guilty of any wrong, of course they should be prosecuted.

Mr. EDGE. How can that be ascertained without a legal inquiry?

Mr. GRONNA. Will the Senator from South Dakota permit me to answer the question?

Mr. STERLING. Certainly.

Mr. GRONNA. If the Senator from New Jersey is at all familiar with farming conditions, he must know that by the very nature of things it is not a possible thing for any agricultural association either to enhance prices unduly or to create a monopoly. It is almost an impossibility to do that. Now, why should not these associations be permitted to do business and to organize and cooperate when it is not possible for them to become a monopoly? I do not know of any such association that has ever been held by the courts either to enhance prices unduly or to be a monopoly in trade.

I have not had time to examine the bill thoroughly. I do not know that I would understand it if I did study it, but I hope that this Congress will pass some legislation definitely and positively authorizing farmers to associate themselves into organizations and thereby improve marketing conditions. It is a question which must be solved, and it ought to be solved quickly, because, as the Senator from Minnesota [Mr. NELSON] said yesterday, there is a great deal of unrest in the country, and if we pass the right sort of legislation it will do a great deal to eliminate the disturbance and the unrest which we are facing to-day.

I beg the pardon of the Senator for having interrupted him at such length.

Mr. STERLING. Just one word, Mr. President, partly in reply to the suggestion made by the Senator from New Jersey [Mr. EDGE] with reference to the legal procedure under the terms of this bill. It follows substantially the same kind of procedure that is followed under the law by the Federal Trade Commission in other respects. Opportunity for a hearing in court is given. A complaint may be made that such an association by its work is unduly enhancing the price of products in which it is interested, and hearing is had upon that complaint.

Mr. DILLINGHAM. Mr. President, may I ask the Senator a question?

Mr. STERLING. I yield to the Senator.

Mr. DILLINGHAM. I desire to call attention to the language in line 11, which follows shortly after the enacting clause:

That persons engaged in the production of agricultural products as farmers, planters, ranchmen, dairymen, or fruit growers may act together in associations, corporate or otherwise, with or without capital stock, in collectively processing, preparing for market, handling, and marketing in interstate and foreign commerce such products of their members; and such producers may organize and operate such associations and make the necessary contracts and agreements to effect that purpose, any law to the contrary notwithstanding.

I ask the Senator if he would be willing to have those words "any law to the contrary notwithstanding" stricken out; and if not, why not?

Mr. STERLING. I think not, Mr. President.

Mr. NELSON. Mr. President, will the Senator allow me to interrupt him?

Mr. STERLING. I yield.

Mr. NELSON. I wish to call the attention of the Senator from Vermont to the amendment suggested in the last paragraph.

Mr. DILLINGHAM. Oh, I am perfectly aware of that amendment; but why is it necessary to have the clause I have mentioned in the bill, unless this is in direct contravention of the antitrust laws of the United States?

Mr. NELSON. It is not in direct contravention of the anti-trust laws of the United States, and this amendment makes it perfectly clear:

Nothing herein contained shall be deemed to authorize the creation of, or attempt to create, a monopoly, or to exempt any association organized hereunder from any proceedings instituted under the act entitled "An act to supplement existing laws against unlawful restraints and monopolies, and for other purposes," approved October 15, 1914, on account of unfair methods of competition in commerce.

Mr. DILLINGHAM. That being so, then why is it necessary to have in the bill "any law to the contrary notwithstanding"? Why not strike it out?

Mr. SMITH of Georgia. Mr. President, will the Senator allow me an interruption?

Mr. STERLING. I yield.

Mr. SMITH of Georgia. If these organizations are subject now to the Sherman Antitrust Act, I, for one, want to say that they shall not be in the future. I am not at all frightened by that suggestion.

I do not want them subject to it. I want them given this privilege. I want them given this right and the consciousness of the fact that their proceeding is legal until this investigation is had and until some judge of the United States rules under the terms of this act that their conduct is improper. I do not know just what the Sherman Antitrust Act does, myself; and I do not know just what the decisions on that subject mean; and I supported this measure in the Judiciary Committee because I wanted to see these organizations freed from attack anywhere. I think them important and valuable; I think it is right that they should exist; and I am glad to take them out from under the Sherman antitrust law if they would be under it to-day.

Mr. STERLING. Mr. President, I just want to say, in answer to the Senator from Vermont [Mr. DILLINGHAM], that I think those words are put there out of abundance of caution, and I think they are rightly there. We do not want this state of things to exist, namely, that the mere forming of an association of this kind shall be deemed a violation of the Sherman antitrust law; and yet in certain quarters that interpretation will be put upon the law, and the object is to say to those who would put such an interpretation upon it that any law to the contrary notwithstanding, this, the bill we are now considering, shall be the law, and these associations may be formed without violating any law.

Mr. DILLINGHAM. Will the Senator let me say that I believe thoroughly in the organization of farmers for the purpose of marketing their goods? I would be the last man in the world to object to any legal or legitimate process which they might adopt for that purpose; but I opposed this bill in committee because I thought it was a direct attempt on their part to avoid the consequences of the Sherman antitrust law, and I did not believe that they wanted that, and the farmers whose attention I have called to it have told me that they do not want it. I have in my correspondence a letter—I have not got it where I can produce it now—from a gentleman in California who tells me that he is the head of 20 farmers' organizations and that the farmers do not ask to be relieved from the operation of the Sherman antitrust law; that I was right in my contention regarding that matter. Now, if that is not the purpose I should like to see the words "any law to the contrary notwithstanding" stricken out. Then we would know what the bill means.

Mr. EDGE. Mr. President, I absolutely approve of the frankness of the Senator from Georgia [Mr. SMITH]. I do not, however, approve his viewpoint.

This bill can not be for any purpose in the world, as the Senator from Minnesota [Mr. KELLOGG] infers, unless it is for the purpose of making clearer the exemption of the farmers from antitrust legislation. Personally, I think it is a mistake, a wrong policy and a wrong principle, to exempt from the provisions of trust legislation any class of citizens. I do not care whether they are farmers or whether they are manufacturers or whether they are bankers or what their vocation may be. The Sherman Act, in my judgment, is properly subject to considerable criticism. If we are going to continue making exemptions, making certain citizens immune as we have already done, or rather enlarge upon them, I think it far better to repeal the Sherman Act or Clayton Act or whatever the various amendments to it may be termed. The principle of class legislation, class distinction, in my judgment is a principle that can lead to nothing in the world but confusion, and it is contrary to the very Constitution under which we live.

Mr. NELSON. Mr. President, the Senator applied that very principle in the bill that is known as the Edge bill.

Mr. EDGE. I am going to refer to that, and I am very glad the Senator reminded me of it in case I possibly should have

forgotten it. I recall that the Senator from Minnesota, in his early remarks on this measure, referred to the so-called Edge bill—I am entirely ready to assume any responsibility that that title may imply,—as containing an exemption from the provisions of the Clayton Act. I must say, with due deference to the Senator's experience and greater knowledge than I have of legislative matters, that the so-called Edge bill specifically provided that every action under it should be in every way subject to the provisions of the Clayton Act. That amendment was adopted by the Senate without division, and the so-called Edge Act in no way contravenes any provision of the Sherman law or the Clayton Act.

Mr. NELSON. It contravenes the Trade Commission law.

Mr. EDGE. If the Senator means by that the so-called Webb-Pomeroy Act, which was enacted before I had the honor of being a Member of this body, which provided for certain combinations to do business abroad, followed by the act we are now discussing, which permitted the financing of those combinations abroad, that is correct; but that, as I understand, is entirely in regard to activities on the other side of the water, and not within the confines of the United States.

Mr. LENROOT. Mr. President, will the Senator yield?

Mr. EDGE. I yield.

Mr. LENROOT. The Senator admits, does he not, that that act does exempt those associations from the operations of the Sherman law as distinguished from the Clayton Act?

Mr. EDGE. When in operation abroad.

Mr. LENROOT. For export business.

Mr. EDGE. Yes; quite so. That policy was established by Congress several years ago, but is confined to foreign business.

Mr. President, I think the time has arrived when we should not exempt any classes from those acts which are supposed to control monopolies, or control activity in making prices, or anything of that character. I have been serving on a committee with the Senator from New York [Mr. CALDER] and the Senator from Iowa [Mr. KENYON] and some others which has led us into some investigation of the coal situation of the country. I have been one of those on the floor of the Senate who have frankly opposed from principle governmental administration or governmental ownership of private business. I have not in any way changed my view; but in investigating the coal situation we discovered, as all of us practically know from our own personal experiences, that the price of coal at retail as compared with the actual admitted price of coal as mined at the mines at a profit is so outrageously out of all proportion—hard coal being sold a month or two later in the large cities of the country at from \$17 to \$20 a ton—that I reached the conclusion that the Government inherently being responsible for the protection of its people, outside of any other responsibility, it was our duty, if that is not corrected by means now in existence, to go to any extreme that is possible under the Constitution to endeavor to settle a situation of that character.

I am merely mentioning that, somewhat apart from the general argument I am making, to try to demonstrate that I am in no way narrow upon the subject of governmental intervention. There are times when it may be necessary and should be invoked when situations such as that are uncovered. But to suddenly take out of general legislation one class and directly or indirectly invite them to make combinations, and then practically to provide how they are not subject to the same prosecutions as other men in business in other lines of industry, in my judgment simply encourages a condition in the country which is not for the best interests of the country. No citizen of the country should be immune from prosecution under the law, and I think a bill of this character, which, it has been admitted by some Senators, is for the sole purpose of making it clear that they are exempted, should not receive the support of this body.

I have no argument at all with those Senators who believe that agricultural associations should be outside of the purview of the act. They have a perfect right to that contention, as frankly expressed by the Senator from Georgia. Personally I think it is the wrong policy, and, of course, having that view, have expressed it from that standpoint.

We have associations of agriculturists in New Jersey and I believe they can serve a useful purpose, as the association of every other class of industry in the country can; the association of druggists, the association of retail merchants, the association of wholesale merchants, and other associations, for mutual interest and mutual aid in the development of their activities. But this aims to go a step further and say that this particular class of citizens can not even be prosecuted unless in some unknown way we can prove in advance that they have formed a monopoly. It is impossible to tell whether they are forming a monopoly unless you have them haled before the courts in order



to find out just what has been their activities. If they are innocent, they have nothing to fear; some of them may not be so innocent as inferred, and in fixing prices may be forming monopolies covered by the law; and why should not the courts have an opportunity to pass upon that without exemption, which seems to me makes it almost impossible to bring them before a court of justice?

Mr. SIMMONS. Mr. President, I do not think there is any question about the contention of the Senator from Vermont [Mr. DILLINGHAM] that the addition of the language "any law to the contrary notwithstanding" would have the effect of exempting these associations from criminal prosecution under the antitrust laws. I think it would undoubtedly have that effect, and it is an effect I do not object to it having. But while this provision would exempt these associations from criminal prosecution, another section of the bill would subject them to administrative and judicial investigation, and if it should be disclosed that their practical operations produced results violative of the purpose and the object of the Sherman antitrust law, they would be liable to suspension or dissolution.

The organization of associations for the purposes designated in the first section of the bill would in itself probably constitute an agreement in restraint of trade and render these associations liable to prosecution under the Sherman Antitrust Act; but under the interpretation of that act by the court they would not be liable to its punitive provisions unless it were shown that their operations actually resulted in unduly advancing prices or restricting trade under the rule of reason laid down by the courts.

While this bill would relieve these associations from criminal prosecution, it safeguards the public against the very evils the antitrust laws are intended to prevent and suppress, and it provides in specific terms, if their operations eventuate in unreasonably enhancing prices to the injury of the public, that they shall be investigated and restrained. So that while the bill would provide for a technical exemption in their favor, it carefully safeguards the interests of the people by providing a means by which, if they do the evil at which the antitrust laws are aimed, they may be put out of business.

Mr. President, in this connection I want to make some general observations with reference to the antitrust law. I do not think it can be truly said that the criminal prosecutions we have had under that law have been at all satisfactory and effective. Under the construction of the Supreme Court, applying the rule of reason, the convictions are so difficult, and prosecutions have been infrequent, in part at least, for that reason, and as a result there has been but little relief from the evils of monopoly from that source.

Notwithstanding our antitrust laws, the country was honeycombed with trusts before the war. Nearly every big industry in the country, outside of agriculture, was conducted through corporated organization, and many of them were operating in flagrant violation of our antitrust laws. There were a few prosecutions, a few civil suits, a few criminal prosecutions, the court ordered a few of these illegal combinations dissolved, but permitted them to be reorganized under conditions which in some instances allowed them to function illegally more effectively than before they were dissolved.

When the war came and the conditions which resulted encouraged the multiplication of these combinations until practically all of the industrial activities of the country except agriculture is to-day in corporate combinations, and I fear a dangerously large number of them are monopolistic.

I can not see that the Sherman antitrust law is effectively protecting the public against the evils at which it was aimed. I am not advocating the repeal of that law, but I say that if the principles of limitation in profits, wisely and equitably fixed, and administrative investigation and judicial review involved in this bill were applied to the great corporations of the country, it might prove more effective in protecting the public against trust evils than the present antitrust laws have proven in actual results produced in its application to past and present conditions.

Mr. KELLOGG. Mr. President, I just want to say to the Senator that I introduced a bill to apply that same principle to all corporations.

Mr. SIMMONS. I am glad to hear that. I will be pleased to examine and study its provisions.

The VICE PRESIDENT. The morning hour having expired, the Chair lays before the Senate the unfinished business, which will be stated.

The READING CLERK. A bill (S. 3944) to create a Federal live-stock commission, to define its powers and duties, and to

stimulate the production, sale, and distribution of live stock and live-stock products, and for other purposes.

Mr. GRONNA. Mr. President, I ask unanimous consent that the unfinished business be temporarily laid aside.

Mr. KING. I object.

Mr. SIMMONS. Mr. President, I was interrupted in my line of thought. I only want to say that I believe that the measure will afford the farmers of the country, in the present and in any future conditions that may exist, very great relief. I think it will be very beneficial to them. I think the benefits that will accrue to the farmers by reason of the organization of associations for the purpose of marketing their products in an orderly way and in a safe way will not only be beneficial to the farmers, but I think that benefit will be reflected in all branches of business.

#### ATMOSPHERIC NITROGEN.

Mr. SMITH of South Carolina. I wish to take this occasion to serve notice on the Senate that when the unfinished business has been disposed of I shall try to get before the Senate the bill (S. 3390) to provide further for the national defense; to establish a self-sustaining Federal agency for the manufacture, production, and development of the products of atmospheric nitrogen for military, experimental, and other purposes; to provide research laboratories and experimental plants for the development of fixed-nitrogen production, and for other purposes.

I merely wish to say in this connection that the bill carries no appropriation, and in this emergency it is of vital importance to the agricultural interests of the country. All that is needed to complete the plan is the sale of the excess of that product now on hand which this plan, if completed, will supplement. I hope that the bill can be acted upon before the Senate takes a holiday recess.

#### GOVERNMENT OFFICES IN THE DISTRICT OF COLUMBIA.

Mr. SMOOT. Mr. President, I am going to take this opportunity to present to the Senate the report of the Public Buildings Commission:

##### "REPORT OF THE PUBLIC BUILDINGS COMMISSION."

"The Public Buildings Commission believes that a report of its activities since its creation will be of interest to Congress at this time.

"The legislative act approved March 1, 1919, provides that the 'Commission shall have the absolute control of and the allotment of all space in the several public buildings owned or buildings leased by the United States in the District of Columbia,' with certain exceptions. The commission is composed of seven members—two Senators, two Members of the House of Representatives, the Superintendent of the Capitol Building and Grounds, the officer in charge of public buildings and grounds, and the Supervising Architect or the Acting Supervising Architect of the Treasury. Ten thousand dollars was appropriated for the expenses of the commission.

"The work of the commission has been conducted with the following objects primarily in view:

"First. To save the Government as much money as possible in rental charges, by moving activities from rented to Government-owned space wherever feasible.

"Second. To settle office-space disputes among the departments. (The commission is glad to say these have been few in number.)

"Third. To provide, so far as circumstances would permit, suitable and adequate space for each department of the Government.

"Immediately upon its organization the commission undertook and completed a very comprehensive survey of all office space occupied by the Government in this city, both rented and Government-owned. This survey gave such information as the name and location of each building occupied by the Government, gross space occupied, the number of employees housed therein, space used for files, space used by employees, average number of square feet per employee, and other data of like nature, which enabled the commission to get a very clear view of the situation in each building. Taking 60 square feet per employee as a basis, it was not difficult to single out the overcrowded buildings and those which were too sparsely occupied. Illustrating the haphazard manner in which these buildings were being used, it might be added that the commission found one building so crowded that each employee was occupying an average of only 11 square feet. Other buildings ran as high as 200 square feet per employee.

"The survey showed the necessity for a number of moves and readjustments of space and these were immediately ordered by the commission. The result was the release of a consider-

able number of rented buildings and a more even distribution of the space in Government-owned buildings.

"A comparison of the rentals paid by the various departments on June 1, 1919, when the commission completed its first survey and the present, will no doubt be of interest:

Department.	Annual rentals— June 1, 1919.	Annual rentals— Dec. 1, 1920.
Agriculture.....	\$190,910.00	\$143,360.00
Alien Property Custodian.....	31,200.00	31,200.00
Board of Mediation and Conciliation.....	2,460.00	2,460.00
Bureau of Efficiency.....		
Civil Service Commission.....	16,875.00	16,875.00
Commerce.....	66,900.00	65,500.00
Council of National Defense.....		
Court of Claims.....		
Employees' Compensation Commission.....	3,600.00	
Federal Board for Vocational Education.....	6,400.00	
Federal Trade Commission.....	12,600.00	
Grain Corporation (Food Administration).....		
Interdepartmental Social Hygiene Board.....		
Interior.....	23,000.00	
International Boundary Commission.....	2,040.00	2,688.00
International Joint Commission.....	1,724.40	3,000.00
Interstate Commerce Commission.....	72,058.04	87,058.04
Justice.....	36,000.00	36,000.00
Labor.....	58,363.60	24,000.00
National Advisory Committee for Aeronautics.....		
Navy.....	1,224.00	
Panama Canal Office.....	7,500.00	7,500.00
Post Office.....		
Public Buildings and Grounds.....		
Railroad Administration.....	86,985.00	(1)
Shipping Board.....	210,105.56	86,279.40
State.....	5,000.00	
Superintendent State, War, and Navy Buildings.....		
Tariff Commission.....	11,000.00	10,200.00
Treasury.....	174,839.00	159,106.08
War.....	81,867.08	25,425.00
Zone Finance Office.....	18,550.00	14,333.28
Zone Supply Office.....	11,389.00	11,380.00
Total.....	1,134,581.68	733,364.80

<sup>1</sup> Rentals for buildings occupied by the Railroad Administration are now being paid by funds derived from the operation of the railroads.

"The difference between these two totals shows a saving in rental charges to the Government of \$401,216.88, to which should be added the \$86,279.40 rental now being paid by the Shipping Board, making a total saving of \$487,496.28. The reason for adding this amount to the total is that arrangements have been made for the entire personnel of the Shipping Board to occupy the Navy Building, and as soon as the necessary details can be worked out the move will be made.

#### "THE TEMPORARY BUILDINGS.

"There are now in this city 15 temporary nonfireproof buildings which were built by the Government during the war. This does not include the Navy Building, the Munitions Building, and Building E, at Sixth and B Streets, which are temporary but fireproof. It has been against the policy of the commission to place permanent departments of the Government in these inflammable structures whenever it could be avoided. It has in a few instances, however, been unavoidable. This reluctance on the part of the commission to place permanent activities in these buildings will account for the fact that in some of them are to be found considerable areas of unused space. This is particularly true of units A and B, at Sixth and B Streets. Some might argue that departments of the Government occupying rented space should be moved immediately into this unoccupied space. Take the Department of Labor for example. It is occupying a splendid building at Seventeenth and G Streets, rented it is true, but at the very reasonable figure of 28 cents per square foot. Would it be the part of wisdom to direct this department to vacate the building and move into one of those inflammable structures when they have a very distinct bargain in their rental charges? Other examples of a similar nature are: The Civil Service Commission, paying 35 cents per square foot; the Department of Commerce, 35 cents per square foot; the Interstate Commerce Commission, 36 cents per square foot; the Department of Justice, 32 cents per square foot; and the Panama Canal office, 37 cents per square foot. The commission believes that in cases like these, where the departments are adequately housed at a very reasonable figure, they should continue to occupy their present quarters until they can be provided for in permanent Government-owned structures. It will be necessary to raze two of the temporary buildings during the coming year, as the owners of the ground upon which they are located decline to renew the lease. They are the Corcoran Courts Building, on New York Avenue, near Seventeenth Street, and the Council of National Defense Building, at Eighteenth and D Streets. The commission has already provided space else-

where for the occupants of these buildings and their demolition will cause no inconvenience to the service.

"With reference to the remaining temporary buildings, the commission believes they also should be razed at the earliest practicable date, or as soon as their retention is no longer a matter of necessity. They were built to last only a very short time, and as the years go by the expense of maintaining them will continue to mount.

#### "EXPENDITURES.

"As stated in another part of this report, an appropriation of \$10,000 was placed at the disposal of the commission. Of this amount there still remained to the credit of the commission on September 30 last, when the last report was made to the auditor, an unexpended balance of \$5,502.58. Thus the commission has expended during the first 19 months of its existence the sum of \$4,497.42. The following statement will show how the funds have been spent:

Personal services (including salary of the secretary).....	\$3,837.12
Printing.....	130.75
Car tickets.....	40.63
Office supplies.....	227.05
Automobile repairs.....	252.05
Telephone.....	9.82
Total.....	4,497.42

During the reading of the report,

Mr. SMITH of South Carolina. Mr. President—

The PRESIDING OFFICER (Mr. ASHURST in the chair). Does the Senator from Utah yield to the Senator from South Carolina?

Mr. SMOOT. Certainly.

Mr. SMITH of South Carolina. The figures given are from June 1 up to December 1?

Mr. SMOOT. June 1 and December 1.

Mr. SMITH of South Carolina. Has the Senator figured how it would be if it should run up to June 1 next?

Mr. SMOOT. Oh, no. It is on an annual basis, so that it makes no difference. These are the rents paid annually on June 1, 1919, and the rents paid annually on December 1, 1920, showing a saving of \$401,216.88.

Mr. SMITH of South Carolina. Does the report compare the same lengths of time?

Mr. SMOOT. Yes. In other words, we have taken Government activities out of rented buildings in the District of Columbia and placed them in Government-owned buildings, and thereby saved to the Government \$401,216.88. I will say to the Senator that that saving will continue from now on.

Mr. McKELLAR. Mr. President, may I make a suggestion right there? I had occasion recently to be down near Sixth and B Streets, where I found one building that had, I think, three floors, all empty. I stepped it off, and the building was a little over 300 feet one way and over 450 feet the other way, fully equipped with every convenience and capable, as it seemed to me, of taking care of a tremendous lot of employees. It would be a splendid place, much better than some of these rented places, and I was wondering why that was empty while the Government was paying rent elsewhere.

That rather made me look into it a little further, and I took the time to go into several other buildings. I found vast amounts of unoccupied space. That particular building is Building B. I went over into Building F. They had some boxes in some of them. I asked what they were going to do with it, and they said they thought they would make a warehouse out of it. The heating apparatus alone in these buildings is very expensive. They are most excellent offices for many of the departments of the Government that are winding up the war affairs of the Government, and it seems to me that we might well utilize these buildings as offices, and cut down the great amount of rent that we are paying.

I just wanted to call the attention of the Senator to this. I know how he feels about it. He has been very active in this matter and has done splendid work in looking it up and cutting down these rentals, and I wished to give him the benefit of my experience and observation.

Mr. SMOOT. Perhaps, Mr. President, so long as the reading of the report has been broken in upon, I might as well answer the inquiry of the Senator at this time, although I should like to have the report printed in the Record consecutively, so that anyone who desires to examine it may do so without going through all of the remarks of Senators.

Mr. McKELLAR. Let the report be printed in full, and the colloquy come in at the end.

Mr. SMOOT. I desire to say to the Senator from Tennessee that the commission is well aware of the situation as to Building B at Sixth Street and Pennsylvania Avenue. Those buildings are all temporary; they are very poorly built; the founda-



tions were not constructed to last over four or five years; they are not fireproof; and we desire to remove them just as quickly as it is possible to do so. We have been using them for storage purposes, but that is extremely dangerous. I should hesitate to order Government papers into them.

Another thing, if Building B, being the center one, ever should catch on fire, all of the adjacent property would be destroyed. We wish to demolish Building B just as quickly as it may possibly be done. There would then be a break between those buildings, which, perhaps, would enable us to control a fire, if one should occur, in one of the other buildings; but with that building standing there it would be an impossibility to do so.

We have to-day in those buildings some records which are most valuable, which could not be replaced, and we have not any storage space into which they can be moved. In fact, I might add here that the commission has under consideration a building plan which we are going to recommend to Congress just as soon as we can get it perfected.

The first thing that the Government of the United States needs in the way of buildings is a structure for storage purposes, where it can store its papers, which are of incalculable value, in a fireproof building. If we had such a building there is hardly a department of the Government to-day which could not use for employees space which is now occupied for storage purposes. When the time comes that we shall have such storage space into which we may move the files and papers of the Government into a storage building which will be fireproof and centrally located, then it will not become necessary to erect buildings for the accommodation of employees in the District of Columbia for a long time to come.

I wish to say to the Senator that we know that the building to which he refers is practically empty, and we do not desire to put any more people into it; but just as soon as the few employees of the Navy Department who are now there are removed we are going to tear the building down.

Mr. McKELLAR. It does seem to me, however, that, considering the possibility of fire, it is just as dangerous for the building to be empty as for it to be occupied.

Another thought also occurred to me. The buildings which are being rented by the Government are in most instances not fireproof, and the Government papers which are in such rented buildings are just as subject to fire as they would be in the other buildings. My experience is that the temporary buildings located in the section referred to are rather better and more suitable for governmental purposes than are the buildings which are being rented, some of the latter being old residences.

I think the Senator's suggestion about having a fireproof warehouse is an excellent one, and that we ought to have such a structure and that the papers of the Government ought to be preserved; but until we get such a building I see no use of the Government tearing down buildings that are so admirably adapted for office buildings of the kind which are needed and paying out rent for buildings which belong to private parties and which are not fireproof.

Mr. SMOOT. Mr. President, perhaps I can explain the matter in this way: For buildings for the Interstate Commerce Commission we are paying in rent \$87,000, in round figures, a year, and for buildings for the Treasury Department we are paying \$150,000 in rent. The Treasury Department is occupying space in the Hooe Building, the Bond Building, and the Southern Railroad Building. Those buildings are fireproof, and it would be perfectly wicked on the part of the commission to order the Treasury Department and the Interstate Commerce Commission into Building B. We could not think of ordering them into that building with the papers which they have. The rents paid for the buildings they occupy constitute the greater part of the rent which we are paying. I would not take the responsibility of ordering either of those agencies into Building B upon any consideration.

Mr. McKELLAR. But the Senator from Utah will recall that the Treasury Department now is occupying a building down there, which I understand is temporary in its nature, for its Internal Revenue Bureau, and I think that bureau has custody of papers almost as important as those of any other agency of the Government.

Mr. SMOOT. The Senator, if he will make examination, will find that the papers of that bureau are stored in other places. I will say to the Senator that we are now anticipating moving the Treasury Department out of one of those buildings and saving \$40,000 a year, but we have got to make further preparation before we can do that.

Another thing in connection with retaining Building B, I will say to the Senator, is that it costs \$200,000 for upkeep and expense of maintaining the building. I told the building cus-

todian of the Treasury Department not to make an estimate for that \$200,000 this year, because we were going to demolish Building B, and we shall save at least \$200,000 the coming fiscal year for repairs and maintenance of the building.

Not only that, but the Architect of the Treasury Department notified me the other day that the authorities would not be responsible for the foundations of Building B if we put into it any number of Government employees longer than this year, because the foundations were constructed with no idea of its being preserved for a longer period of time.

I do not know whether the Senator from Tennessee went into Building E, which is not included in the 15 temporary nonfireproof buildings referred to in the report.

Mr. McKELLAR. I stumbled down there merely by accident, knowing that we were paying out somewhere between a half a million and a million dollars for rent for city property which was not fireproof and probably not as well equipped for the Government's purposes as the temporary buildings. So I walked through not only Building B but through Building F, which is in much the same condition. There are a few employees in Building F, as I recall, on the west side.

Mr. SMOOT. Some of these buildings of which I speak are temporary, but they are also fireproof.

We were compelled to pay during the war as high as \$1.87 a square foot for space rented, but we have a contract for the building occupied by the Department of Labor under which the rental paid is 28 cents per square foot.

At the conclusion of the reading of the report,

Mr. SMOOT. Mr. President, that is the conclusion of the commission's report to the Senate. As I stated a moment ago when interrupted, the commission has under consideration to-day a plan for building in the future the structures needed by the Government in the District of Columbia. The time has arrived now when there should be some kind of a plan or policy adopted, and just as soon as a survey has been made and the program is agreed to by the commission, we expect to come to Congress with it. We are going to ask Congress what they think about it, and, if they approve it, I am quite sure that in the very near future the Government of the United States will not be paying one cent for rent in the District of Columbia. That is the aim of the commission. From the report it will be noticed that, with an expenditure of less than \$5,000, the commission has saved in rents in the District alone nearly \$500,000. And within the next three months I am quite sure that there will be added to that figure over \$100,000 more.

The PRESIDING OFFICER (Mr. FLETCHER in the chair). Does the Senator ask that any action be taken on this report, or simply that it be ordered printed?

Mr. SMOOT. All I desire is to have it in the Record as presented by me.

Mr. McKELLAR. The report will be printed in full in the Record?

Mr. SMOOT. Oh, yes.

Mr. McKELLAR. Mr. President, I want to say a word about this report. I think it is a very excellent report, and I think the Senator's commission is entitled to thanks for the good work it has done.

As the Senator from Utah stated a few moments ago, I feel that there is more work that could be done along this line, because I think we are paying too much rent. I also indorse the idea that the Government should own its own buildings. I believe that an immense saving could be had to the Government as a result of constructing and owning its buildings. Of course, whether the present time is a favorable one for erecting buildings, in view of the high price of materials, I do not know; perhaps not.

Mr. SMOOT. No; it is not.

Mr. McKELLAR. But in the early future, as soon as it can be done, public buildings should be constructed for the various departments, and they should be placed in locations that will be for the convenience not only of the departments themselves but of the legislative branch of the Government.

#### MEAT-PACKING INDUSTRY—FEDERAL LIVE-STOCK COMMISSION.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (S. 3944) to create a Federal live-stock commission, to define its powers and duties, and to stimulate the production, sale, and distribution of live stock and live-stock products, and for other purposes.

Mr. KENYON. Mr. President, I should like to inquire as to the record on this bill, whether or not the formal reading has been dispensed with? If not, I ask unanimous consent that the formal reading of the bill be dispensed with and that the bill be read for amendment.

The PRESIDING OFFICER (Mr. FLETCHER in the chair). Is there objection to the request of the Senator from Iowa? If not, it will be so ordered.

Mr. WADSWORTH. Mr. President, do I understand that the Senator intends to offer the amendments, or has he already done so and had them printed in italics in the copy of the bill?

Mr. KENYON. The amendments were offered several days ago and adopted, and have been printed in italics.

Mr. WADSWORTH. They have been printed?

Mr. KENYON. I think there were one or two minor amendments that were not, through an oversight.

Mr. SMOOT. Mr. President, does the Senator say they have been adopted by the Senate? I do not think they were adopted.

Mr. KENYON. Oh, the amendments were adopted; yes. They were presented and adopted, and they have been printed in italics.

Mr. STERLING. Has the bill been printed showing the amendments?

Mr. KENYON. The amendments are printed in italics in the bill. There was another amendment with reference to striking out section 5.

Mr. WADSWORTH. Mr. President, I had not expected to discuss this bill this afternoon with any degree of thoroughness; but during the speech of the Senator from Iowa [Mr. KENYON] the other day he was good enough to let me ask him one or two questions about the procedure by which the persons under the jurisdiction of the proposed live-stock commission might have a hearing and appeal from the decisions of the commission. The bill has been reprinted with the amendments that were adopted the other day, and that makes the pages run a little differently from the way they were in the old print. In just a moment I think I can find the part to which I refer. I called the attention of the Senator from Iowa to this language, and as I did so I admitted very freely that I had had very little experience in matters of this sort.

At the top of page 19 of the new print we find this language:

No such order of the commission shall be modified or set aside by the circuit court of appeals unless it is shown by the packer or operator that the order is unsupported by evidence.

As I recollect a colloquy which ensued, the Senator from Iowa [Mr. KENYON] and a moment later the Senator from Montana [Mr. WALSH] gave me to understand that that was the usual language employed in a statute of this kind which grants power to a commission to make rules and regulations, and then proceeds to give an opportunity for those against whom the rules or regulations are issued to appeal; and I recollect quite well, I think, asking the Senator from Montana if the language used in the Federal Trade Commission act was similar to this and would have the same effect as this, and I was assured that it was. At least, that is my recollection of the reply.

I find, however, Mr. President, that the exact opposite is the case, and that this language constitutes, if I can read English and understand it, a complete reversal of the usual procedure in cases of this kind.

Mr. KING. Mr. President, the Senator is discussing the packer bill, as I understand?

Mr. WADSWORTH. Yes—not at any length, I may say. There is one point I want to clear up.

Mr. KING. I think it is so important that I suggest the absence of a quorum.

The PRESIDING OFFICER. The Secretary will call the roll.

The roll was called, and the following Senators answered to their names:

Ball	Heflin	McNary	Spencer
Borah	Kellogg	Moses	Sterling
Calder	Kendrick	Norris	Sutherland
Capper	Kenyon	Oberman	Thomas
Dial	Keyes	Page	Townsend
Dillingham	King	Phelps	Trammell
Edge	Kirby	Poinexter	Underwood
Fall	Knox	Pomerene	Wadsworth
Fernald	La Follett	Sheppard	Walsh, Mass.
Fletcher	Lenroot	Smith, Ariz.	Warren
France	Lodge	Smith, Md.	Watson
Gore	McCumber	Smith, S. C.	
Harris	McKellar	Smoot	

Mr. KING. I desire to announce that the junior Senator from Idaho [Mr. NUGENT] and the senior Senator from Nevada [Mr. PITTMAN] are detained on account of service in the Committee on Territories.

The PRESIDING OFFICER. Fifty Senators have answered to their names, and a quorum is present.

Mr. WADSWORTH. Mr. President, referring again to the language used in the proposed act, near the top of page 19, let me read it again:

No such order of the commission shall be modified or set aside by the circuit court of appeals unless it is shown by the packer or operator that the order is unsupported by evidence—

And so forth.

I find upon examination, Mr. President, since the colloquy which occurred the other day, that the language of the Federal Trade Commission act, which was referred to in that colloquy, is quite different and proceeds, I believe, upon an entirely different principle. Section 5 of that act reads as follows:

Upon such filing of the application—

That is, for a hearing—

and transcript the court shall cause notice thereof to be served upon such person, partnership, or corporation, and thereupon shall have jurisdiction of the proceeding and of the question determined therein, and shall have power to make and enter upon the pleadings, testimony, and proceedings set forth in such transcript a decree affirming, modifying, or setting aside the order of the commission. The findings of the commission as to the facts, if supported by testimony, shall be conclusive. If either party shall apply to the court for leave to adduce additional evidence, and shall show to the satisfaction of the court that such additional evidence is material and that there were reasonable grounds for the failure to adduce such evidence in the proceeding before the commission, the court may order such additional evidence to be taken before the commission and to be adduced upon the hearing in such manner and upon such terms and conditions as to the court may seem proper.

I submit, Mr. President, that this procedure which I have just read is entirely different from the one proposed in the bill; for under this bill, whenever the commission has reached a finding, the person affected may appeal to the circuit court of appeals. No opportunity is given at that point for the submission of new testimony or any requirement imposed upon the representatives of the commission to present conclusive testimony in support of their findings. The entire burden is thrown upon the defendant to prove that the findings of the commission are unsupported by evidence, thus throwing the burden of proof upon him. The Federal Trade Commission act does not do this. I doubt if any other act granting powers to Federal commissions or departments or bureaus proceeds upon the theory contained in this bill, and I think it is an exceedingly important departure, and a very unwise departure, from accepted practice.

Mr. NORRIS. Mr. President—

The PRESIDING OFFICER. Does the Senator from New York yield to the Senator from Nebraska?

Mr. WADSWORTH. I yield.

Mr. NORRIS. I do not remember now what the laws in the other cases referred to provide for, but is it not fair to assume that the object here sought is that, as far as the facts are concerned, the commission acts like a jury, and the law seeks to avoid a new trial on the same facts; that, as far as the facts are concerned, it makes the findings of the commission, if based on evidence, final, the same as an appellate court would say in passing on the verdict of a jury?

Mr. WADSWORTH. Mr. President, that might be acceptable if that were the whole story; but this proposed live-stock commission is to issue regulations governing devices and practices in commerce, which will have the effect and force of law, a power far greater than that given to the Federal Trade Commission. The Federal Trade Commission, under its powers, presents evidence of alleged facts to the court, and the court decides whether that evidence supports the contention of the commission that a law set forth in the act itself has been violated. This pending bill equips the commission with power to issue binding regulations, setting forth in detail what is unlawful as a device or a practice in business. It then proceeds to try the man or concern alleged to have violated its regulations. It tries the man for violating the law which it has legislated into existence. Then, when the man appeals to the circuit court of appeals, this bill puts the entire burden of proof upon him to show that the commission did not have the evidence to back up the findings with respect to its own regulations. That is quite a proposition in a free country.

Mr. STERLING. Mr. President, may I ask the Senator from New York if the language of the bill does not even go further?

Mr. WADSWORTH. It does further on. I would be glad to have a lawyer point it out, because I have been disturbed about this.

Mr. STERLING. The burden of proof is on the packer or operator. The bill provides that—

No such order of the commission shall be modified or set aside by the circuit court of appeals unless it is shown by the packer or operator that the order is unsupported by evidence.

Is not the burden of proof on him not only to show that it is against the weight of the evidence but that there is no evidence whatever, not even a scintilla of evidence, in support of the order? It is broad, general language "unsupported by evidence"; that is, by any evidence whatsoever.



Mr. NORRIS. Is not that the same as the verdict of a jury in an appellate court?

Mr. STERLING. No. There may be some evidence to support the verdict of a jury, but we may say the weight of the evidence is the other way and it is contrary to the preponderance of the evidence. You put the burden of proof on the packer to show that there is no evidence whatever, not a scintilla of evidence, Mr. President.

Mr. KENYON. Mr. President, I do not want to break in on the argument of the Senator, because I have argued it heretofore and I am interested in hearing the Senator's views. But the Senator from South Dakota [Mr. STERLING] is familiar with the decisions of the Supreme Court as to the holdings of the Interstate Commerce Commission, where they hold exactly that if there is any evidence to support the commission's holding, it is sufficient.

By the Federal Trade Commission act the findings of the commission as to the facts, if supported by testimony, shall be conclusive. I am not going to break into the argument of the Senator from New York, because I am anxious to hear him.

Mr. WADSWORTH. Mr. President, my contention has been that this is a reversal of the usual practice and constitutes a very profound change, and it is of more significance and more importance in this situation, because this bill gives to a Federal agency, a commission, power to legislate. The Federal Trade Commission act does not give the Federal Trade Commission any power to legislate.

Mr. KENYON. Mr. President, I do not want to keep interrupting, but, of course, if it gives the commission the power to legislate, to make law, then it is unconstitutional. That is a bone of contention, I understand. We say it does not delegate legislative power, but merely administrative power. If it does delegate the power to make law, it is unconstitutional.

Mr. WADSWORTH. It delegates to the commission the power to issue regulations which shall have the effect of law, and a man can be haled into court by the commission for violating them.

Mr. KENYON. The Supreme Court has time and again said, and very recently, that the delegation of administrative power to make rules and regulations is not a delegation of power to legislate or to make law.

Mr. KING. Mr. President, will the Senator yield?

The PRESIDING OFFICER. Does the Senator yield to the Senator from Utah?

Mr. WADSWORTH. I yield.

Mr. KING. The action of the Supreme Court, however, as I understand the Senator, validates those regulations, gives them the force of penal statutes, so that any infraction of those orders would constitute a penal offense.

Mr. KENYON. What I had in mind was the decision of the Supreme Court, the clearest one, I think, in the Grimaud case, in 220 United States.

Mr. KING. There is another case, the Utah case.

Mr. KENYON. The Clarke case, I expect the Senator refers to. In the Grimaud case the Secretary of Agriculture was given certain power under the meat-inspection act. He made his rules and regulations, and a violation of them was made a criminal offense. That is sustained by the Supreme Court as not being a delegation of legislative power. We have not done that here. We have not made the violation of these rules and regulations a criminal offense. It goes on through the review by the court, and after the court shall have sustained the rules and regulations, then subsequent violations can be dealt with.

Mr. KING. If the Senator will pardon me, the effect is to make the orders of this commission statutes, and to give them the effect of statutes.

Mr. KENYON. No; not at all.

Mr. KING. In the ultimate result they have the same effect as if they were statutes.

Mr. KENYON. Not any more than the finding of the Secretary of Agriculture in the Grimaud case. If you consider that making them statutes, it is practically the same thing. Of course, the line of demarcation between administrative power and legislative power is sometimes pretty indefinite; it is pretty hard to distinguish. We all know that. We have tried to formulate this provision on the theory that it is merely an administrative power, not a legislative power. But I apprehend that it is a fair subject for discussion.

Mr. KING. The point I wanted to make, if the Senator from New York will pardon me, was that under this bill the regulations and orders promulgated by the commission in the last analysis would have the same effect as if they had been enacted by Congress into law, because their infraction, after the court's scrutiny, would constitute a penal offense, and a violator of those orders would be subject to fine and imprisonment, or both, as the court might determine.

Mr. WATSON. I would like to ask the Senator from Iowa a question.

Mr. WADSWORTH. I yield.

Mr. WATSON. Did I understand the Senator from Iowa to say that the bill, in the respect which we are now discussing, follows the provision of the interstate commerce act?

Mr. KENYON. No; I did not say that. I said the Supreme Court had held, without the interstate commerce act so providing, that if the order of the Interstate Commerce Commission had any evidence to support it, it was sufficient. The Supreme Court itself has laid down that rule. But the Federal Trade Commission act does provide that it will be conclusive if supported by evidence.

Mr. STERLING. Could the Senator from Iowa refer us to the decision? I would like to see the exact language of the Supreme Court in that connection. I do not now recall it.

Mr. KENYON. I will call the Senator's attention to it. I think if the Senator from South Dakota will look near the end of the talk I made the other day, which was perhaps a little too extended, he will find the decisions cited. I attempted to cite them.

Mr. STERLING. I thank the Senator.

Mr. WADSWORTH. Undoubtedly other statutes, clothing departments and commissions with power, have moved in this direction; that is, in the direction of the delegation of legislative power. Some have been successful and some have not. I think that tendency in modern legislation is one which should give us some concern, and just because we have gone a little way in a previous statute is no reason why we should in haste decide to go very much further in a succeeding statute.

I call attention to page 12 of the bill to illustrate the power to legislate under this proposed law. Section 14 reads:

No operator shall engage in any unfair or unjustly discriminatory practice or device in commerce.

There is in another part of the bill the power, of course, given to the commission to prescribe rules and regulations for the carrying out of the provisions of the act. Therefore the commission can issue regulations stating what practices are discriminatory, and those regulations are to apply to a vast industry in all its ramifications, complicated to as high a degree as any other industry in which human beings are engaged.

Then section 14 proceeds, in line 8:

Or charge, collect, receive, or demand any unreasonable charge or rate for any service in commerce performed in connection with the business of such operator.

I may say that the term "operator," as used in the bill, really means the stockyards or concerns operating or owning stockyards.

Now, if the commission is to be clothed with the power to say what is an unreasonable rate or charge to make in all the dozens and dozens of stockyards all over the United States in the handling of literally millions of cattle, sheep, swine, horses, mules, and goats, it in effect will have the right to state what is a maximum reasonable charge or rate, and therefore it will fix prices. That certainly is legislative authority which will have its effect upon an enormous industry, upon the handling of millions of meat-producing animals, affecting hundreds and hundreds of thousands of producers.

If any stockyards, great or small, no matter who owns them, whether they be handling cattle, sheep, and hogs, or whether they may be merely a horse auction establishment in a city, for that will come under the term operator as defined in the bill, shall charge any greater rate than the rate fixed as reasonable by this agency of the Federal Government, or if it is alleged that they have charged any other rate the commission will hale them before it and try them for violating the law which it had proclaimed.

Mr. KENYON. The Senator refers to operations in commerce and says "any horse market in a city." It would have to be something that engaged in commerce.

Mr. WADSWORTH. Surely the exchange of articles is commerce.

Mr. KENYON. Interstate commerce.

Mr. WADSWORTH. The bill does not say that.

Mr. KENYON. Oh, yes.

Mr. NORRIS. Commerce is defined in the bill.

Mr. WADSWORTH. Very well, interstate commerce. If a horse happens to come from outside of the District of Columbia and is sold at a public auction place in the District of Columbia, it is in interstate commerce, I suppose. If it is alleged that the man asked too high a rate or imposed too high a charge for the services rendered by the operator, such as the hay or the grain fed to the animal while he is in the yards, he is to be haled before the commission and tried by the commission which issued the regulation, having the effect of a price-fixing law.

If the decision of the commission is against the defendant—we will call him—and the defendant may apply to the circuit court of appeals, and when he gets before the circuit court of appeals he finds that under the terms of the bill he is compelled to show that there is no evidence against him. I think that is going pretty far. He is compelled to prove that the finding of the commission is unsupported by evidence, that there is not any evidence.

I have not read the Statutes of the United States, and I very much regret to say that I am not a lawyer, but I would like to have some one point out to me where that particular phrase has ever been used in a statute of the United States in a situation similar to this. I was assured the other day that it was used in the Federal Trade Commission act, but I find that it is not.

After all, Mr. President, the citizens have some rights in this country, and the man charged with violation of the law is supposed, until finally convicted, to stand upon an equality with the power that is attempting to prove that he is violating it. He should not be overburdened and handicapped at the very start of the procedure and forced to prove more than his accusers are forced to prove. It is in violation, as I look upon it, of all the principles of justice known in America, unless I am fearfully mistaken. If I am, I would be glad to have it pointed out. I would willingly confess my error.

Now, Mr. President, again upon this line, to illustrate, if I may, how vastly important is that language on page 19, let us look at an earlier section of the bill and see its ramifications and how far the regulations of the commission may extend in making the doing of certain things or a vast number of things unlawful, and then putting the burden of proof upon the defendant to show that he has not committed a violation. I refer to these things to illustrate the spirit behind the bill. The part I am going to refer to now may not have direct application to the part I have just discussed, but it does illustrate the vast tyranny that is to be set up here.

On page 6, line 15, in section 6, we find this language:

It—

Referring to the commission—

shall investigate and ascertain the demand for, the supply, consumption, costs, and prices of, and all other facts relating to, the ownership, production, transportation, manufacture, storage, handling, or distribution of live stock or live-stock products, including operations in and the ownership of stockyards.

I call attention of the Senate that that means that the commission shall investigate—it is mandatory upon it, and, of course, it will rejoice at the opportunity—not only the operation of packers and of stockyards and their transportation facilities but the production of live stock.

It means that agents of the commission, under the terms of the bill, are commanded to visit the farms and the ranches all over the United States, or to a sufficient degree in order to satisfy the spirit of the bill, to inquire of the owners of farms and ranches as to the cost of producing live stock, of feeding it, of raising it, of caring for it in every way, and all the different elements of the live-stock business. That of itself would not seem such a tremendous thing to suggest unless we are concerned about the immense cost of the undertaking. That might not seem to be important until we reach section 7, the next section, which reads:

The commission shall have the power to require by subpoena the attendance and testimony of witnesses and the production of all books, papers, records, and correspondence relating to any matter under investigation.

There is your commission empowered to summon a farmer from his farm, to order him to produce all his records, all his accounts, and display all the workings of his business. They can summon him across the country on a subpoena. They can go anywhere, take anybody engaged in the production of live stock or feeding of live stock who has had any experience whatsoever in estimating the cost of the live-stock business, and if he fails to answer the subpoena the bill proceeds to provide penalties to be imposed upon him. The commission is authorized, as I pointed out before, to prescribe the rules and regulations under which all this is to be done.

Mr. President, I think there has never been anything like that suggested before in this country. We are accustomed, of course, to take very severe jurisdiction over public utility corporations and, to a certain extent, pretty severe jurisdiction over concerns engaged in interstate commerce; but I see nothing here restricting the application of this power to persons engaged in interstate commerce. Indeed, I see the long, strong arm of this commission reaching everywhere. It can summon the Senator from Wyoming [Mr. KENDRICK] and put him on the stand in Chicago and compel him to produce all his books, papers, and accounts. It can summon the Senator from Iowa

[Mr. KENYON], if he were engaged in the live-stock business, to the city of Buffalo or Chicago, and compel him to tell the commission and the public the capitalization, the investment values, the costs of everything he owns that is used in any degree, remote or direct, in the live-stock industry.

Mr. KENDRICK. Mr. President—

The PRESIDING OFFICER (Mr. DIAL in the chair). Does the Senator from New York yield to the Senator from Wyoming?

Mr. WADSWORTH. I yield.

Mr. KENDRICK. I would like to ask the Senator from New York if he does not believe that the producers of both live stock and farm products would like to have some information go out to the country at this time as to the actual cost of production?

Mr. WADSWORTH. Of course they would. I am not inveighing against the dissemination of information, but I do think it is about time when we lifted our hand against the attempt of the Government to compel a private citizen to disclose everything he knows about his own business, and to penalize him under proceedings adjudging him in contempt of court if he declines.

Mr. KENDRICK. May I ask the Senator if other commissions have not been given this power in almost the same language, and without any material evidence of abusing the power?

Mr. WADSWORTH. I do not know what other commissions have power like this. You can summon, of course, the managers and officers of a railway, relying upon the power of Congress under the interstate-commerce clause to regulate the railways and compel them, of course—I assume we can, though I have not read the statute—to tell all about the management of the railways, and under certain provisions of the Federal Trade Commission act men concerned in enterprises in interstate commerce may be summoned; but I have never heard it suggested that a private citizen, living anywhere in the United States, upon the farms and ranches, and regardless of whether he is engaged in interstate commerce or not, can be summoned with all his books and papers and punished if he does not tell everything he knows about his own business.

Mr. SMOOT. And I may add, if the Senator will permit, that the Interstate Commerce Commission, as well as every commission that has been organized, has to act under the law, but the commission proposed here is to act under rules and regulations and orders that they themselves may make.

Mr. WADSWORTH. Under their own law.

Mr. SMOOT. And the citizen upon the farm or any other place in the United States does not know anything about what those orders, rules, and regulations may be. They are not the law. It is the most unheard of piece of legislation in the world.

Mr. WADSWORTH. Let me continue the reading. I think I have not made a mistake in the meaning of this proposed act. Let me again read section 7:

SEC. 7. The commission shall have the power to require by subpoena the attendance and testimony of witnesses and the production of all books, papers, records, and correspondence relating to any matter under investigation. Any member of the commission may sign subpoenas, and members and examiners of the commission may administer oaths and affirmations, examine witnesses, and receive evidence.

Such attendance of witnesses and the production of such books, papers, records, and correspondence may be required from any place in the United States at any designated place of hearing. In case of disobedience to a subpoena the commission may invoke the aid of any district court of the United States within the jurisdiction of which such inquiry is carried on to require the attendance and testimony of witnesses and the production of such books, papers, records, and correspondence.

Such court may, in case of contumacy or refusal to obey a subpoena issued to any person, issue an order requiring such person to appear before the commission, or to produce books, papers, records, and correspondence if so ordered, or to give evidence touching the matter in question; and any failure to obey such order of the court may be punished by such court as a contempt thereof.

And "the matter in question," as the phrase goes, on line 21, includes all those matters that are recited in section 6. Every sheepman, every cattleman, every hog raiser, every man dealing in horses will be subject to this power to be summoned from his home to the place where the inquiry is being carried on, not confining it to the district in which the man lives, but to the district where the inquiry is being carried on. So men can be whipped back and forth across the continent at the behest of this commission, over which there is no control whatsoever, for they are authorized under the proposed act to make their own rules and regulations.

Mr. KENDRICK. Mr. President—

The PRESIDING OFFICER. Does the Senator from New York yield to the Senator from South Carolina?

Mr. WADSWORTH. I yield.

Mr. KENDRICK. The Senator from New York is a practical stock grower, and I ask if he does not believe that this



provision of the proposed law is necessary because of the long distances which these shipments traverse in going to market? It might be quite possible that a shipment of stock from the northwest coast of this country would find a market in Chicago, or even in the Senator's own State of New York. It would be necessary under such conditions to summon witnesses from long distances. It would not be very economical, in other words, to hold the meetings of the commission where the shipments originated, but it would be very much more economical to have the investigation, in case there were any complaints, at the destination of the shipment or in the vicinity of the stockyards. I ask if the Senator does not believe that such a provision, authorizing meetings to be held at any place which may be necessary, is essential to the proper working of such a measure as that now pending?

Mr. WADSWORTH. Mr. President, of course witnesses must be summoned considerable distances and should be summoned considerable distances when their testimony is required to prove the truth or falsity of a charge of violation of law, but the bill unfortunately goes beyond that. The proposed commission is commanded under the terms of the bill to investigate, regardless of charges of fraud, deception, or discriminatory practices, the question of the production of live stock and its costs, and to summon witnesses, with their books and papers, to testify in any matter under investigation. The provision goes beyond the code of civil and criminal procedure in the power to summon witnesses. They may be summoned at the whim of a commission which may want to ascertain how much it takes to produce and mature a 4-year-old steer, and if they are sufficiently curious about that, they may summon anybody who has ever had a 4-year-old steer, whether engaged in interstate commerce or not, and compel him to testify, and if he declines to come he is in contempt of court.

Now, I submit to the Senator from Wyoming, who I know is a lover of freedom, that the placing in the hands of the Federal Government or any of its agents a power of that dimension constitutes a pretty dangerous thing.

Mr. KENDRICK. Well, Mr. President, the Senator from New York understands very well that these investigations are to be made on complaint.

Mr. WADSWORTH. The bill does not say so. That is the trouble. It says nothing of the kind. The language on line 15, page 6, reads:

It shall investigate and ascertain the demand for, the supply, consumption, costs, and prices of, and all other facts relating to, the ownership, production, transportation, manufacture, storage, handling, or distribution of live stock or live-stock products.

The commission can summon anybody from the farmer to the retail butcher anywhere at any time for any purpose and make him disclose everything about his business.

Mr. KENYON. Mr. President—

The PRESIDING OFFICER. Does the Senator from New York yield to the Senator from Iowa?

Mr. WADSWORTH. I yield.

Mr. KENYON. They can summon anyone, but, of course, they can not compel anyone to come unless the court says so. An order must be made and then the subpoena is issued under it. If the man refused to come the commission would then be compelled to go to court.

Mr. WADSWORTH. The commission issues the subpoena.

Mr. KENYON. Of course, the commission issues the subpoena, but if the man does not come the commission is compelled to go to court. Does the Senator suppose the court would require a witness to come under such circumstances as he has narrated?

Mr. WADSWORTH. If the commission could persuade the court that it wanted and needed the information which that man could give them about his business, it is to be presumed that the court, looking at this act, would reach the conclusion that Congress in passing it meant to give power to the commission to subpoena all these people.

Mr. KENYON. Yes; if it were necessary for the purposes of the investigation. Of course that is a matter for the court.

Mr. WADSWORTH. It would be very easy to show that it is necessary for the purposes of the investigation. The commission could do that easily enough.

Mr. KING. If the Senator from New York will pardon me, I venture to suggest that the court would regard the application of the commission as more than a prima facie case, as almost conclusive, and the burden of proof would rest upon somebody else to show that it was not necessary. I think that the court would be compelled under this language to issue the subpoena upon the application of the commission, unless it could be shown that there was some fraud upon the part of the commission or that they were guilty of some intrigue or were trying to perpetrate some wrong.

Mr. KENYON. If there were a wrongful invasion of the rights of the party which amounted to a wrongful search and seizure, or anything of that character, the court would not grant a subpoena. The Senator from New York knows that.

Mr. KING. I do not suppose that it would be considered a wrong in the sense of a moral wrong or an invasion of personal rights to drag a man across the continent; and yet, after all, as the Senator from New York has said, it is a wrong in many instances.

Mr. LENROOT. Mr. President, will the Senator yield to me? The PRESIDING OFFICER. Does the Senator from New York yield to the Senator from Wisconsin?

Mr. WADSWORTH. Yes.

Mr. LENROOT. I should like to ask the Senator from New York whether he is not aware that this language is taken from the interstate commerce act, which contains identically the same provision? It is also found in the railroad-control act which we passed at the last session. The railroad labor board is given identically the same power and in the same language.

Mr. WADSWORTH. Is not that applicable only to persons engaged in interstate commerce?

Mr. WATSON. That refers to transactions in interstate commerce.

Mr. LENROOT. No; in the case of the railroad labor board it is as to the wages of employees of the railroads, which is not a matter of interstate commerce at all.

Mr. WADSWORTH. Under the regulating powers assumed by Congress, under the interstate commerce clause, Congress has taken jurisdiction over the wages, at least indirectly. I can not see how that principle would apply to this situation, for there is nothing about interstate commerce here.

Mr. LENROOT. It all relates to interstate commerce.

Mr. KENYON. The Senator does not mean to claim that interstate commerce is not involved. Section 6, the part to which he refers, relates to "live stock or live-stock products, including operations on and the ownership of stockyards." When the business of live stock and live-stock production and stockyard operations are considered, they are all interstate commerce. It is only about such matters that the commission can inquire. The bill does not apply to anything not based on that consideration.

Mr. WADSWORTH. I turn to the term "live stock," which, as defined on page 2, simply means "live or dead cattle, sheep, swine, horses, mules, or goats." I do not see anything about live stock in interstate commerce there.

Mr. LENROOT. Mr. President, the Senator may not have been in the Chamber the other evening when I inquired of the Senator from Iowa as to the construction of section 2, and suggested that as the language now is it does not in all cases confine the operations of the bill to interstate commerce. The Senator from Iowa said if it did not it was so intended, and that an amendment should be made so as to confine it to transactions in interstate commerce.

Mr. WADSWORTH. Of course, if such amendments were perfected and adopted it would make a vast difference in this bill.

Mr. KENYON. I think the bill, on close analysis, will be found only to relate to interstate commerce. The definition of live stock does not say interstate commerce, but connecting it with the method in which it is used as to stockyards, as to the packers, and as to the operators it is clear from all of the other definitions combined that there is nothing intended but interstate commerce and that nothing else can be intended.

Mr. WADSWORTH. Let me turn to the definition of stockyards. The definition is as follows:

The term "stockyard" means any place, establishment, or facility maintained and conducted at or in connection with a public market and consisting of pens or other inclosures and their appurtenances in which live cattle, sheep, swine, horses, mules, or goats are received, held, or kept for purchase, sale, shipment, or slaughter in commerce.

Mr. KENYON. We added the amendment incorporating the words "or slaughter in commerce" to make certain about that.

Mr. WADSWORTH. Then is it suggested that section 6 be also amended?

Mr. KENYON. Section 6, if the Senator will look at the words on lines 19 and 20, reads:

Or live-stock products, including operations on and the ownership of stockyards.

Mr. WADSWORTH. That is merely expansive; it is not restrictive.

Mr. KENYON. If the other does not cover it, it should, of course, do so. It is not the intention of anybody to give the proposed commission power to go beyond the domain of interstate commerce, because the entire bill is founded on that theory and it is the only theory upon which it could be founded.

Mr. WADSWORTH. It is a very remarkable bill, as written, to be founded on that theory.

Mr. KENYON. I do not doubt the Senator thinks it is remarkable.

Mr. WADSWORTH. Mr. President, again referring to the spirit of this act, let me call attention to title 5, on page 21.

Section 25, commencing in line 6, reads as follows:

The commission may, upon application by any individual, partnership, corporation, or municipality, issue to such applicant a certificate of registration to engage in or carry on, under this act, the business, whether in interstate or foreign commerce, or both, of conducting or operating stockyards, or slaughtering live stock, or processing, preserving, or storing live-stock products or perishable foodstuffs—

With certain provisos that follow. This is known as the voluntary registration portion of the bill, or the voluntary licensing portion of the bill.

The authors of the bill have studiously refrained from going to the length of imposing a compulsory governmental license upon the concerns engaged in this tremendous industry; so, rather than put in a compulsory license provision, this voluntary license provision is put in. Now, we would have this situation: Here we have a national live-stock commission offering to register any concern which applies for registration and which complies with certain provisions of title 5. It is a grave question in my mind how many concerns in the United States who are engaged in any element of the live-stock business would dare refrain very long from taking out a license. If one concern should do it, it would immediately make that a part of its advertising. It would spread far and wide the knowledge of the fact that it was registered officially under the wing of the Federal Government. It would display that fact on its letter heads, in all its business communications. It would relate that fact upon the labels upon the goods it produced and distributed and sold, "Registered under the national live-stock commission act; approved," or whatever other form of statement was authorized by the rules and regulations of this commission.

Let us take the case of a small concern, we will say, situated in one of our smaller cities. There is a pretty well-known concern in the central part of New York State whose goods have a good deal of fame around the country. It is not at all impossible for other people to go into the same business, and if other people form a concern to go into the same business in that neighborhood or anywhere in the vicinity, and before doing so apply for registration, and say in advance that they would comply with the provisions of the act under title 5, if they apply and get the license they would immediately be in competition with the concern that did not have it. How long would the concern that did not have it last, with the Government of the United States certifying to the one, and by inference in the public mind not certifying to the other?

Mr. President, I think any sensible business man knows that once the Government opens the door by statute to governmental registration and approval, the great majority of business concerns in the United States will be forced to seek registration and approval, the competition will be so keen without it. I have not much faith in this thing operating as a voluntary license scheme. I think it will turn out in the long run to be compulsory in fact.

I do not think many Senators are in favor of the compulsory licensing of business. We have had some of that in the last three or four years, and it has not worked very well; but, assuming that concerns do go into this voluntary registration, let us see something about the powers of the commission.

Mr. KING. Mr. President—

The PRESIDING OFFICER. Does the Senator from New York yield to the Senator from Utah?

Mr. WADSWORTH. I do.

Mr. KING. May I inquire of the Senator, for information, whether or not it was the purpose of the committee reporting this bill to give any preferential rights to the registrants under the bill? And if not, what was the purpose of authorizing a voluntary registration?

Mr. WADSWORTH. The explanation that was given here the other day, a very brief one, by the Senator from Nebraska [Mr. NORRIS], who, I am sorry to say, is absent—or perhaps it was the Senator from Iowa [Mr. KENYON]; I think it was—was that title 5 would tend to encourage municipal slaughterhouses or municipal markets.

Mr. KENYON. Mr. President, I do not know that the Senator refers to me. I think I did say that it would encourage public markets, an experiment in trying to establish a system of public markets, to get rid of the long lane between producer and consumer.

Mr. WADSWORTH. Of course, it goes infinitely further than public markets. It takes in everybody that has anything to do with preserving, storing, or processing meat food or live-stock

products. The understanding that I acquired in the committee was that title 5 originated from somewhere outside the committee, and that it was expected to do certain things, but unfortunately it is not drawn that way at all.

Let me call attention to the duties imposed upon the registrants on page 22.

The first is:

To provide and maintain or secure, when necessary and practicable, adequate railroad connections with its place of business.

The second is:

To furnish the services and facilities of its business on fair and reasonable terms and without unjust discrimination to persons applying for such service and facilities: *Provided*, That it shall set aside such portion of the facilities of its business, as determined by the commission, as may reasonably be necessary to accommodate small shippers and local patrons.

In other words, if the commission can persuade or by indirect compulsion compel a business concern engaged, we will say, in putting up bacon in glass jars to take out a license, the factory and facilities of that concern may be placed at the disposal of anybody else that desires space.

(3) To impose only such charges and rates as are reasonable for the service or facility afforded.

That is, the price-fixing of the product that is processed or stored. They can fix the price of any of those articles.

(4) To exercise such care of the live stock, live-stock products, perishable foodstuffs handled by it as may be necessary to prevent undue loss in connection therewith.

I have no comment to make upon that.

(5) To maintain sanitary conditions in the conduct of its business.

The meat-inspection service of the Department of Agriculture already does that. That is a duplication of function, pure and simple.

(6) To refrain from unfairly discriminatory or deceptive practices or devices in the conduct of its business.

I shall not comment upon that.

Mr. STERLING. Mr. President—

The PRESIDING OFFICER. Does the Senator from New York yield to the Senator from South Dakota?

Mr. WADSWORTH. I do.

Mr. STERLING. Suppose, on page 22, subdivision (b) should read:

It shall be the duty of every operator.

The word "operator" being used to describe the stockyards. Would the Senator then complain of the duties prescribed which should be complied with by the operator or stockyards?

Mr. WADSWORTH. I will say to the Senator from South Dakota that I have this complaint to make: To the best of my information, the Supreme Court of the United States has held that a stockyard is not engaged in interstate commerce, and I do not see what jurisdiction we have over that.

Mr. KENYON. Mr. President, I do not want to combat the Senator, but I do not want that idea to go without denial.

Mr. WADSWORTH. We can look it up. I am not sure myself.

Mr. KENYON. I think the Senator probably refers to what are known as the Anderson and Hopkins cases in the Supreme Court, that are commonly cited as sustaining that doctrine. I ask the Senator to refer to the case of Swift against United States, in One hundred and ninety-sixth United States, and I think he will see that if any such doctrine should be claimed for the Hopkins and the Anderson cases, they are practically overruled by the Swift case. I thought this: Naturally, stock shipped into a stockyard comes in interstate commerce. Then the transactions take place in the stockyards. Are not those purely State transactions? It would naturally seem that they were; but the Supreme Court, in the case that I have referred to—Swift against United States—holds that these are incidents of commerce; that where there is a general system of receiving stock around the country at different places entering into the stockyards it is different from what might be one transaction; and those matters connected with the stockyards, I think it is fair to say from that decision, are incidents of commerce.

In the Anderson and the Hopkins cases there were involved rules and regulations of the traders' exchange and the live-stock exchange. It was held there that those matters were not in interstate commerce, and under those decisions there is some basis for saying that stockyards might not be considered in interstate commerce; but in the Swift case that was set aside.

Mr. WADSWORTH. I have gotten the impression that it would be pretty difficult to reach a definite conclusion that a stockyard or market was an instrument in interstate commerce. For example, may I suggest to the Senator there is a



public market here in the city of Washington, and people bring vegetables and fruit to it. They rent stalls in it, I assume. They sell their goods. Those people who cross the District line, bringing their goods in and selling them, are engaged in interstate commerce. But is the owner of the market engaged in interstate commerce? If so, what does he do in exchanging goods between States? I can not see it.

Mr. KENYON. If he himself is engaged in the business of receiving these things from outside of the District, then he is engaged in interstate commerce.

Mr. WADSWORTH. Yes; but he is not.

Mr. KENYON. If he merely owns the place—

Mr. WADSWORTH. And charges rentals.

Mr. KENYON. And charges rentals, I doubt very much whether he is engaged in interstate commerce.

Mr. WADSWORTH. That is all a stockyard does. A stockyard company merely owns the place, provides the facilities for penning the cattle and sheltering them, and hay and grain to keep them alive while they are there being sold. The man who owns the market in a city provides the facilities for sheltering the produce, the vegetables, and the fruit, and provides heat and light, if necessary, to keep the place bright and warm while other people are selling the produce. I can not see how the owner of the market is engaged in interstate commerce.

Mr. KENYON. Now, let me say to the Senator, if the owner of the market in addition to all that was himself engaged in the commerce—

Mr. WADSWORTH. That is different.

Mr. KENYON. If he himself owned the place and as an incident to the shipping in had to do with the selling and had to do with the buying, then there is no doubt, I think, that he would be absolutely engaged in interstate commerce.

Mr. WADSWORTH. That is very different. Then you catch him as a shipper and a buyer.

Mr. KENYON. But you find your stockyards owned and controlled by the parties who are engaged in interstate commerce.

Mr. WADSWORTH. Yes; but, now, Mr. President, the Senator from Iowa is touching upon the very point that is cured, it is supposed, by this bill. This bill prohibits a packer from owning stockyards. That takes the buyer of live stock out of the ownership of the yards themselves. I am not complaining against that. I think, on the whole, that is a very good thing to do.

Mr. KENYON. After two years.

Mr. WADSWORTH. Yes; of course, you have to give them time; but after that is done this bill still proceeds upon the theory that the stockyards themselves are an incident in interstate commerce and that the owners of the yards are engaged in interstate commerce, and I think that is where the bill fails.

Mr. KENYON. Mr. President, does not the Senator believe the stockyards are properly instrumentalities of railroads, the same as terminal facilities, passenger depots, and things of that kind?

Mr. WADSWORTH. No, Mr. President; I do not.

Mr. KENYON. I think they should be under the interstate commerce act, and placed under the railroad act, and be a part of the railroads. I think it is an indefensible thing that men can own the stockyards and at the same time be the people who are buying the things the stockmen are buying.

Mr. WADSWORTH. This particular provision does not stop that.

Mr. KENYON. I think it does.

Mr. WADSWORTH. Then, all right. Having done that, the bill does not surrender its jurisdiction over the stockyards, but proceeds to hold jurisdiction over them as if they were still engaged in interstate commerce.

The Senator from Iowa [Mr. KENYON] has contended that the stockyards of the United States should be under the jurisdiction of the Interstate Commerce Commission, and should be regarded properly as a part of the transportation system of the country; in other words, a part of the railroads. Mr. President, I hope, in the interest of the live-stock producers, that that will never be done. The business of handling or managing a stockyard is something which the average railroad man knows nothing about; and it is a fact, Mr. President, that those few stockyards in the United States which are owned or controlled by the railroads are known in the whole industry as the poorest yards in the country. The only people who are competent to manage stockyards are people whose first concern is with the comfort of the stock; and I think I may mention this, that in the old days of stockyards a great many of them in the United States were wretchedly run. The Senator from Wyoming [Mr. KENDRICK] remembers that better than I do. The yards were filthy, the employees who handled the animals beat and clubbed them, jammed them in and out of live-stock

car doors and in and out of pens, to the great detriment of the stock and the injury of the owner who had shipped them to the market to be sold, and incidentally to the injury of the man who wanted to buy healthy animals, unbruised and uninjured; and one of the greatest things that has happened in the last 10 or 15 years has been the improvement in the management of the stockyards, making them cleaner, more comfortable for the animals, imposing rules and regulations upon the employees to treat the animals decently, and providing for prompt service for feeding them upon arrival, for resting them before they are offered for sale. All those things are of vast importance to the man who produces the live stock out on the farm and has to send it to the market to be sold.

I do not criticize this bill for divorcing the packers from ownership of stockyards. One of the reasons, at least, for packers acquiring ownership of stockyards—I know of some instances—was because the live-stock men begged them to do it, because they, the packers, had some concern in the comfort and welfare of the live stock itself, and the yards were so wretchedly run that they wanted somebody with capital to go in and straighten them out and see that the stock was well taken care of.

It may be declared contrary to good public policy for the packers to own stockyards. Very well. Let us not put them under the railroads, for the railroads do not know anything about it. Let the yards be sold as is provided by the decree entered into between the Government and the so-called five big packers, a decree issued by the Federal court, under which they are given, I think, two years to dispose of their holdings in stockyards. Let them be sold.

Mr. KENYON. The decree, as I understand it, has not been arranged as yet as to that particular phase of it.

Mr. WADSWORTH. A plan for the disposition of the holdings has not been finally approved. That is under discussion now. Nevertheless the policy has been adopted by the Government, the decree has been entered, and it is binding.

Mr. KENYON. I understand the Senator does not believe that it is proper or wise to have the stockyards owned by the packers?

Mr. WADSWORTH. I have never been as alarmed about it as some other people, but I certainly make no objection to the Government declaring that as a policy. But one thing I may be permitted to say: That I hope no Congress will ever pass an act putting the management of the stockyards under the railroads. Let other persons buy the yards, or the controlling interest in them, from those who are now, under the decree, compelled to sell them; and if I had any say about it, Mr. President, or any influence in it, I would see to it that associations of stock producers purchased the yards and continued to see to it that they were managed properly in the interest of the producer and the comfort of the stock. I do not think the Senator from Wyoming [Mr. KENDRICK] and I are very far apart on that. But, Mr. President, after the stockyards have been taken away from those who are engaged in interstate commerce, I can not see how those yards are still in interstate commerce.

What happens in the stockyard? A man sends his cattle or his sheep or his hogs from the shipping point nearest his farm or ranch, and he wires or writes his commission man that he is going to do it. Ordinarily he does that. He ships them to himself ordinarily, in care of the commission man, and the commission man receives them when the railroad unloads the stock at a certain set of pens which are known as the unloading pens. That terminates the interstate commerce.

Mr. KENDRICK. Mr. President—

The PRESIDING OFFICER. Does the Senator yield to the Senator from Wyoming?

Mr. WADSWORTH. I yield.

Mr. KENDRICK. I suggest to the Senator from New York that that would apply to possibly a majority of the stock, but not to all of it. Many thousands of cattle, sheep, and other kinds of live stock are consigned to the markets at a longer distance than what we would call local markets. The owners of stock near the local markets would try those markets, and, failing to find satisfactory markets, the stock are reloaded and shipped across State lines into other markets. So the illustration given by the Senator does not apply in anything like all of the cases.

Mr. WADSWORTH. The illustration applies, Mr. President, in a great majority of the cases. But I was not giving that illustration as a portion of the argument. I was only explaining the situation.

Mr. KENYON. May I suggest this to the Senator, too, that if the stockyard is not engaged in interstate commerce, then it would not be under the bill?



Mr. WADSWORTH. But you put them under the bill.

Mr. KENYON. Oh, no. We define stockyards where there is interstate commerce. It might be a question of fact. You might have a stockyard at Omaha that was absolutely without question in interstate commerce. You might have one in Buffalo that was not. It would not apply unless it was.

Mr. WADSWORTH. I can not see how the Buffalo yard and the Omaha yard are different.

Mr. KENYON. Those are only used as an illustration.

Mr. WADSWORTH. However, Mr. President, the stock are unloaded from the cars in certain pens, the unloading pens, and then the agent of the owner, in other words the commission man, sends his men to drive them from those unloading pens to another set of pens in the stockyards proper, a set of pens set aside for the use of the commission man, where he proceeds to have the cattle fed and watered by the management of the stockyards. That is all the stockyard does, to feed and water cattle and shelter them. The management of the stockyard does nothing else but feed and water and shelter and weigh the cattle, if they are sold by the pound. The buyers come through the pens and the commission man sells the cattle; and when they are sold the commission man drives them to the loading chutes, if they are to be shipped out by railroad, and the railroad takes charge of them again at the loading chutes, and interstate commerce is then resumed.

But at no point in the transaction are the president and the secretary and treasurer of the stockyards engaged in interstate commerce. They are only feeding, watering, and sheltering the live stock, while other people are selling them. They are not transporting cattle; they are not shipping them anywhere. I do not see how you can engage in interstate commerce unless you transport something across a State line, and stockyard managements do not do that.

Mr. President, the live-stock business is a very big one, and its ramifications go all over an enormous country; and if I may utter a criticism or, perhaps, a warning, we would better not regard this bill merely in the light of the five big packers. There are some other people in the business. There are many, many thousands, and when we are trying to legislate against five concerns, to regulate them, and are actuated almost entirely by the size of those concerns, it is a very serious thing to go ahead without thinking of all the other elements in the business, which have no connection whatever with the five big packers, which are not engaged in interstate commerce at all. And I think it is a rather dangerous proposal to set up a Federal live-stock commission and clothe it with power to issue regulations which will affect this enormous industry in all its ramifications and complications.

That has been my contention against this bill. I am not here to defend the five big packers. I entertain the impression, Mr. President, that they are the best able to defend themselves of all the people affected by this legislation. They are organized. They can employ counsel. They can appear before the live-stock commission and defend themselves and make their contentions for or against regulations. But what is the little man going to do? He can not employ counsel the year around to keep watching all the regulations and orders issued by the commission and be warned against them. The little men, Mr. President, in the aggregate deal in a majority of the live stock in the United States. I know that assertion is considered rather startling by some people who say that the Big Five control the slaughter of the majority of the live stock in the United States; but they do not control it, and they do not slaughter the majority, and nowhere near it.

Mr. STANLEY. Mr. President—

The PRESIDING OFFICER. Does the Senator from New York yield to the Senator from Kentucky?

Mr. WADSWORTH. I yield.

Mr. STANLEY. As I understand it, it is the Senator's contention, with which I am inclined to agree, that this bill will apply to any packer engaged in interstate commerce, without regard to the size of his business.

Mr. WADSWORTH. Every one. I think there are about a thousand, though I am not sure. An interesting thing in the testimony before the Committee on Agriculture was that every one of the small packers who came before us testified that they were free from oppression at the hands of the Big Five, and many of them testified that they were making a little more money than the Big Five in proportion to their operations. So they do not need protection very much.

Mr. STANLEY. I understand it is admitted that the profits of the smaller packers were greater than the profits of the larger ones.

Mr. WADSWORTH. Slightly larger. So, Mr. President, I would be glad to have the status of the stockyards straightened out in this bill.

The Senator from Iowa says that it only means the stockyards which are actually engaged in interstate commerce; but the bill does not say so.

Mr. KENYON. Mr. President, I do not like to keep interrupting the Senator, but if he takes the definition of stockyards on page 2—

Mr. WADSWORTH. Let us read it. It provides that—

The term "stockyard" means any place, establishment, or facility maintained and conducted at or in connection with a public market and consisting of pens, or other inclosures, and their appurtenances in which live cattle, sheep, swine, horses, mules, or goats are received, held, or kept for purchase, sale, shipment, or slaughter in commerce.

It is the cattle and the sheep that are to be sold in commerce. It is not the stockyards which are engaged in commerce. Under that definition and wording the bill gives jurisdiction to the commission over the stockyards. I think I am right about the definition.

Perhaps, Mr. President, we can resume discussion of title 5 again. On page 22, subdivision 7, it reads:

It shall be the duty of every registrant to keep complete and accurate accounts and records of its business and to submit reports when called for and in such form as may be prescribed by the commission; and

(8) Otherwise to conduct its business in such manner as may be prescribed in rules, regulations, and orders issued under this section by the commission to carry out the purposes hereof.

Section 8 can very well be described as the section which is intended to pick up everything that all the other sections may have missed, and gives complete power over all the things that may have been forgotten in the previous ones.

In the middle of page 23, line 11, the bill provides:

It shall be the duty of the commission—

And this, I think, is very interesting—

to prepare standardized plans and specifications for grounds, buildings, and other facilities suitable for the business conducted or to be conducted by registrants and to furnish such plans and specifications free of charge to such registrants or to applicants for certificates of registration who have given assurances of undertaking the construction and operation of such buildings and facilities.

That is paternalism gone pretty far when the Government draws the plans of the buildings and all the facilities.

(2) Furnish to registrants reports embodying existing knowledge concerning satisfactory and economical appliances and methods of food preservation by cold storage, freezing, cooking, dehydration, or otherwise.

The Department of Agriculture is doing that now. That is plain duplication of functions. The Department of Home Economics, the Bureau of Animal Industry, and the Bureau of Chemistry in the Department of Agriculture, if my recollection is not pretty bad, are investigating these very things now and are sending out bulletins all over the United States. I hope we are not going to duplicate to that extent.

Subdivision 3 reads:

Cooperate with registrants in procuring for them adequate services from common carriers, by railroad or otherwise.

My recollection is that that is the duty of the Interstate Commerce Commission, under the railroad law, to cooperate with manufacturing concerns and other concerns engaged in commerce in getting railroad connections. Here we are setting up another body to do that same thing.

(4) Furnish to registrants all available information as to supplies of foodstuffs handled by such registrants, and the location and movement and transportation costs of such foodstuffs.

I have no comment to make upon that, although it comes very close to duplicating the functions of the Bureau of Markets in the Department of Agriculture.

(5) As far as practicable, when requested by any such registrant, provide for the inspection by agents of the commission of the live stock, live-stock products, or perishable foodstuffs received or distributed by such registrant to determine the quality, quantity, or condition thereof.

The meat-inspection service of the Department of Agriculture does exactly that thing now. It maintains an inspection service of all the meat-food products going into interstate commerce. Every slaughterhouse, every butcher shop, every packing house whose products go into interstate commerce, is to-day under supervision of the meat-inspection service of the Department of Agriculture. This would duplicate that.

At the proper time I think I shall venture a motion to strike out title 5, because, I think in practice—and I say this in all sincerity—it will result in compulsory license. I think it will be impossible for the average business concern, especially the small ones, to resist the implied command or invitation by the Congress, as set forth in the bill, to take out a license. The invitation or the reduction will be so strong that in effect they will be compelled to do it, and then we will have a Federal licensing system for the hundreds and hundreds of undertakings and with power granted to the commission to do all these things with relation to these licenses, even to fixing the price of their products.



Mr. President, I had not intended this afternoon to speak so long. On another occasion I wish to comment upon some other features of the bill.

Mr. SMOOT. Mr. President, the able address of the Senator from New York [Mr. WADSWORTH] has been listened to most of the time by only five Senators. At this particular moment nine Senators are in the Chamber. I do not know where the other Senators are, but I think it an outrage that a bill is before the Senate that if enacted into law may mean the death of one of the largest businesses in the country, and it will be the beginning of placing all business of the country in the hands of commissions located at Washington, which would mean the destruction of businesses that has taken years to establish.

When the Senator from Iowa [Mr. KENYON] the other day delivered his address, although it was earlier in the day, the greater part of the time there were not to exceed a dozen Senators in the Chamber.

Mr. KENYON. Mr. President, in behalf of the Senator from New York and myself I would like to inquire of the Senator from Utah if he thinks it is due to the fact that it happened to be the Senator from New York and the Senator from Iowa speaking. That might be a pretty good excuse.

Mr. SMOOT. No; and I will say without a question of doubt, that I would not care what Senator it was that was speaking upon the subject there would have been no more Senators present than have been during the discussion of the bill by the Senator from Iowa and the Senator from New York.

What is the use of Senators spending their time in trying to discuss a matter of this kind if we can not have other Senators present to listen to what is said?

Mr. KENYON. I would like to ask the Senator what is the matter with the United States Senate, if anything? Why is it that no more interest is taken in legislation?

Mr. SMOOT. I have been trying to ascertain for a number of years what is the matter and have tried to come to some conclusion, but I have not arrived at a conclusion that has been satisfactory to myself. We discuss measures of the most vital importance to the country. We see Senators come into the Chamber to vote who many times have not read the bill under discussion, and all that is asked is, How does the committee stand on it?

Mr. GRONNA. Mr. President—

Mr. SMOOT. I have often wondered what the people visiting the Senate think of the situation. Will not the time come before long when the Senate is in session, particularly when there are subjects involving such far-reaching results as the pending bill does, that we can have the presence of Senators? I believe it will come. I think it is the duty of every Senator to at least give a part of his time to the Senate when in session. But we have grown into the habit of simply answering the roll call and then going out of the Chamber and not coming back again until the bell rings either for a vote or for another roll call.

I now yield to the Senator from North Dakota.

Mr. GRONNA. Is it not true that when any really important measure, to which there is strenuous opposition, is before the Senate, we generally find at least a quorum here? Is it not fair to presume that on this measure, which has been before Congress so long and has been discussed so thoroughly, there is no real opposition to the bill?

Mr. SMOOT. I do not think the Senator is stating the case correctly. We have had packer legislation before the Senate on several occasions, but the pending bill is worse than any former bills presented.

Mr. WADSWORTH. Mr. President, will the Senator from Utah yield to me?

Mr. SMOOT. Certainly.

Mr. WADSWORTH. There is only one criticism I make of the last expression of the Senator that this should be called packer legislation.

Mr. SMOOT. It has been so wrongfully designated and is what Senators understand it to be.

Mr. WADSWORTH. It goes infinitely beyond the packer. If it were merely packer legislation, confined to the so-called Big Five, we could discuss it upon that basis, but this goes infinitely beyond that. It will tax the whole live-stock industry from the calf to the dining table.

Mr. SMOOT. If Senators had been in the Chamber and listened to what the Senator from New York has said, there would not have been a question in their minds that that is what the bill really provides. I called it packer legislation because that is what legislation of this character has been designated in the press of the country, upon the floor of this Chamber, and it is generally so known because the people of the country have come to the conclusion, or at least the understanding, that it only affects the five great packers of the United States.

Mr. KENYON. Mr. President—

Mr. SMOOT. I yield to the Senator from Iowa.

Mr. KENYON. I would like to suggest to the Senator from Utah that there has gone out a general impression in some way that this is the short session and that Congress would do nothing but pass appropriation bills. I think that sentiment is found among a good many Senators. I do not subscribe to it at all, and I do not think the Senator from Utah does, but here are tremendously important bills pending, outside of this bill. One we have had under discussion in the morning hour ought to be disposed of. Here is the Sheppard-Towner maternity bill that should be taken up and disposed of. But if it was generally understood in Congress that instead of sitting around and doing nothing up to the 4th of March except appropriation bills, that we were going to get down to business and either pass these measures or defeat them, or at least give them their day in the Senate, I believe there would be a very different sentiment. I am inclined to think that that idea which has gotten out, and with which the Senator must be familiar, has something to do with the lack of interest in this session.

Mr. SMOOT. It may be the case, but the Senator also knows that this same condition of things has taken place for two or three years.

Mr. KENYON. I know it.

Mr. SMOOT. Whether it be the short session or whether it be the long session, I am in hopes that something may come that the practice that has grown up in this body of late would be reversed.

So far as I am concerned I do not wish to enter into a discussion of the provisions of the bill at this late hour this afternoon, but I will be ready to go on with it to-morrow. I shall, however, take a little time in a preliminary way to discuss one phase of the measure before adjournment.

Mr. TOWNSEND. Would the Senator like to have an invitation extended to the other Senators to come in?

Mr. SMOOT. Not at all, I will say to the Senator; it will do no good; it will simply disturb those who can hear the bell in what they are doing. Those who are out upon the golf links or out of their offices will not hear it, and we shall not get them here.

Mr. TOWNSEND. Therefore, I think I will suggest the absence of a quorum. It might be a good thing to have them disturbed.

Mr. SMOOT. I ask the Senator not to do that to-night, because I do not want to disturb them.

Mr. TOWNSEND. Very well, then, I will withdraw the suggestion.

Mr. SMOOT. Mr. President, the idea has gone abroad and it is in the minds of most of the people of the country that the reason for this legislation is that the packers have not only been robbing the consumer but robbing the stock raiser as well. The press has been filled with such statements by all sorts of sensational writers, and it has been dinned into the ears of the American people until they really believe it.

If the authors of this proposed legislation wish really to reach the profiteers in the United States, if they desire to get at the profiteers who handle food and meat products, they had better change this bill; they had better strike out its provisions which are designed to control the business of the packers, whose establishments are doing business upon the least percentage of profit on all turnovers of any in America or in any part of the world.

There is something radically wrong in the distribution of goods in the United States; it costs altogether too much money. The profits which have been made by the retailers of the District of Columbia—and I take it for granted that the condition is only the same in the District as in most other parts of the United States—have been in some cases criminal. The profits which have been made by the retailer upon the meat from a steer have been generally more than the price paid for the steer, the cost of railroad transportation of the steer to the packer, and the cost of slaughtering the animal and the preparation of the meat for the market.

I generally keep a record of what I pay for goods in the District. I have such records running some 10 years back. They are not in my handwriting, but in the handwriting of the grocer, and embrace the daily purchases, with prices. As I go back to the year 1912 and look at the prices which I then paid for sirloin steak and compare them with the prices on the bill which I received day before yesterday and a few other bills which I have received this month, the figures are somewhat startling.

I hope that those who are interested in the pending measure may take note of what the actual conditions are, and, instead of pressing the pending bill, will prepare some legislation to

regulate the prices which are charged the consumer. If they will do that the story will be an altogether different one.

I notice that on the 14th day of December, 1912, the best sirloin steak which I then bought in the District of Columbia, 4 pounds, cost \$1, or 25 cents a pound. I have a bill here that was rendered on the 9th day of the month for 4 pounds of the same kind of steak, which cost \$2.20—120 per cent increase in the price of steak, while the price of the meat being sold by the packers, so called, is very little different now from what it was on the 1st day of December, 1912. I can go through the whole list here, Mr. President, and show to the Senate that it is not the packers who are culpable.

It is so not only as to meat, but it is also true as to nearly everything which one purchases. I thought I would test that proposition. Last June before I left for home I picked up a bill which had been rendered for groceries which had been purchased at retail on some date in June. Taking that bill I went down on Pennsylvania Avenue and bought a wholesale bill of each one of the articles. I figured up the retail price I paid for all of the items, and then figured up the wholesale price upon the same articles, and the difference between the wholesale and the retail prices was 87 per cent! Rather a handsome profit. No telling what the difference would have been if I could have purchased from the producers.

If the Senate of the United States desires to help the consumers in this country, and if it has the power to do so, it seems to me that we are beginning at the wrong end of the line.

Mr. KENYON. Mr. President—

Mr. SMOOT. I yield to the Senator from Iowa.

Mr. KENYON. I should like to ask the Senator from Utah if the Lever Act would not cover such a situation as he has indicated showing the charging of unreasonable prices?

Mr. SMOOT. Perhaps it could, but it does not do so.

Mr. KENYON. Has not the Congress of the United States given the power to the Attorney General's office to remedy it, so far as law can remedy it? I do not know, but I suspect that if there were some attempt to enforce the Lever Act it might result in lowering some of the prices.

Mr. SMOOT. All I know is that, Lever Act or no Lever Act, prices have not been reduced very materially. I notice that during the last few days, however, there has been a reduction of prices, and there will be more.

Following the adjournment of Congress last year I returned home for a few days. I asked my business associates there to begin to reduce their stock of goods on hand, and with that end in view to cut prices and force sales of stock which they had on hand at that time. They, like others, however, thought there was no need of taking such action until other retailers began to cut prices. The jobbers of the country held prices up just as long as they could. They waited for the time when their competitors should make a reduction in their prices, and, Mr. President, they all waited too long.

What is the underlying difficulty to-day with the financial conditions which confront us? The truth is that reductions have come about altogether too suddenly. They ought to have been taking place for over a year and business should have been adjusting itself to the new conditions which everybody ought to have known were going to come upon us.

I do not wish to be an alarmist; such an attitude does no good, but on the contrary sometimes hastens things too rapidly; but I wish to say now that if I could speak to every merchant in the United States, man to man and face to face, and discuss the existing situation, I would tell them all that the best thing for them to do is to meet the situation as it is, and to remember that the time has passed when profits of 100 per cent or 150 per cent can be imposed upon the consumer. I remember years ago when I was the manager of a retail store that it was thought a profit of 25 per cent was about as high as could possibly be obtained.

Mr. POMERENE. A gross profit.

Mr. SMOOT. A gross profit, as the Senator from Ohio says. I do not believe that it is possible to go into a drygoods store in the District of Columbia to-day and find a single item, unless it has been placed upon a bargain counter, on which the profit does not run from at least 40 to 50 per cent.

I know that it costs more to conduct business to-day than it formerly did. We have the telephone, for instance, and from nearly every home there come three or four telephone messages a day requesting that a box of matches or a can of corn or some small article be delivered at once. I know that the advertising carried on to-day by small merchants as well as the large ones imposes an immense burden upon the cost of distributing goods. I am not saying that advertising is not necessary, for if one merchant advertises all must follow suit, and,

perhaps, in a way, advertising charges are the least objectionable of all of the extra expenses. Then, too, rentals are higher, and compliance with acts of Congress imposing a limit upon the hours of employment have added greatly to the cost of conducting business. All of these modern methods are recognized as entering into the cost of distributing goods; and the ultimate consumer must pay that cost.

But, despite all those items, there is no question of a doubt that in the last few years prices have been charged the consumer from one end of this country to the other that can not be rightly defended; and why we should pick out the industry that during that whole period of time has charged less profits than any other upon what it has handled and disposed of I can not understand.

Mr. POMERENE. Mr. President, does not the Senator think that if he were addressing any ordinary audience in any section of the country, and should say that he was going to throw a brick and hit on the head a man that had charged too much for his goods, and so forth, about two-thirds of the audience would duck their heads?

Mr. SMOOT. Well, there is something in that. Of course, I recognize that the packers have very few votes and very few friends, and I suppose I shall be criticized now for speaking of the charges made by retailers. You know there are lots of votes among the retailers; but it makes no difference to me, and it certainly should make no difference to any Member of the Senate or the House. We ought to look at the conditions just as they are.

As I came through Chicago the other day I visited the International Live Stock Exhibition. I have witnessed that exhibition a number of times during my life, but I do not remember ever seeing a more wonderful exhibition of live stock than was shown there. I have seen the exhibitions in England and in other foreign countries. I have seen them in this country, as I say, many times in different States; but never did I see such a wonderful collection of live stock as was shown at the exhibition this month. I thought to myself: "Is there any square mile of land in all the world where so much business is done as upon that 1 square mile in Chicago in which the packing industry is located, and to which the live stock of this country is shipped from all parts of the land?"

Mr. President, I went through some of those institutions. I have had some little experience in business, but I thought to myself, "Suppose you were put in charge of this business, could you manage it? Could you have brought it up to the perfection in which it exists to-day?" And I had to admit to myself that it would be next to impossible. Here, Mr. President, we find a business that has grown not only in volume but in perfection of handling and distributing its products, until there is nothing like it in all the world; and now we want by legislation to turn it over to be managed by rules and regulations and orders of a commission appointed, created by Congress.

I say, without fear of contradiction, there is not a member of that commission that could manage successfully any one department of that great industry; and if the men who favor this legislation owned the business they would never think of hiring such men for that purpose.

We know the condition. The commissioners are not going to make these investigations personally. Who, then, will make them? Somebody that has passed a civil-service examination; more than likely persons that never conducted business to any extent in all their lives. Who is going to issue the orders and the rules and the regulations? Men who know nothing about the business. If we are going to destroy it, let us do it outright, let us do it at once, rather than to bring about a strangulation that will take perhaps a year or two to accomplish.

I wanted to say that much to-night before entering upon a discussion of the provisions of the bill itself, and I should like the Senate to consider the proposed legislation without any prejudice whatever, and upon the facts rather than upon sensational statements and reports.

It may be that if we pass this legislation it will not be long before it is repealed; but I have never yet seen a case where there has been an agency of investigation created but that that agency always found some excuse for continuing its existence and always found some excuse for an increase of power. You always find them pleading for increased appropriations. Pass this bill and that will be repeated, and the business interests of this country may just as well know now that this is only the first step to be taken. You direct and control by legislation, through a commission, the packing industries of this country, and the next step will be the control of all businesses in this country.

Why, what a splendid time a lot of these clerks passing the civil-service examination would have in directing the business



of the United States. And you might as well know that you can not destroy business in the United States without affecting not only the revenues of the United States but the very existence of our country.

Last month I was coming from Los Angeles to my home. I took a party to dinner on the diner. On the menu card there were steaks, and the price of each appearing. I noticed that a small steak was \$1.50; a full steak \$2. My friend said, "Let us have a full steak, and that will be ample for two." The waiter said, "Oh, yes, sir; that is ample for two." We ordered it. It came in to us. I think it weighed about 4 ounces. It was not enough for one, and it cost \$2. I had sent to me a menu card from Seward, Alaska, and I thought to myself, why is it that a full steak in the United States costs a great deal more than a full steak in Alaska? Why is it that eggs in the United States cost more than eggs in Alaska? I see from my bills that eggs are \$1.10 a dozen, or were yesterday. But in this menu card from Seward, Alaska, I noticed that not only meat, but practically everything else, costs less, even salads and relishes.

When are we going to stop this in the United States, and how are we going to stop it? Not by licensing the packers. I would like to ask the American people not to buy a single thing that they are not compelled to have until the prices become reasonable.

Mr. President, if the time has come to license business in the United States, treat them all alike. If the time has come when business must be run in the United States by a lot of \$1,500 and \$1,000 clerks, directed by a commission here in Washington, let it apply to all businesses.

I took occasion to go down to the market the other day to find out the prices at which the packers sell meat in the District; and I think it would be rather interesting to the people of the District to know that the carcasses of beeves from Texas are selling at from 12 to 13 cents a pound; that medium steers from our western States are selling at from 14 to 16 cents a pound, according to weight; that heavy, grain-fed beeves are selling for from 18 to 20 cents a pound.

Mr. President, those prices are the prices at which this beef is delivered to the store, with no expense whatever for even hauling it from the packer's house to the store where the retailer sells the beef.

Mutton is selling to-day wholesale for from 15 to 16 cents a pound. Last night I had upon my table a leg of mutton. It was supposed to be lamb, but the bones were larger than those of any 5-year-old sheep I ever saw in my life. I looked at the check, and I found out that there were 6½ pounds of it, \$2.28; that is 35 cents a pound. That lamb-mutton the merchant paid 15 to 16 cents a pound for. It may be, Mr. President, that those things can go on. But let us know where the profiteering is. We are after the man now who sells that for 15 and 16 cents, to control his business. I have a long list here, Mr. President, showing similar results, but why go into it when they are all about the same.

When I was last in Chicago I was asked by one of the packers to go to their hide-storage place. They have built storage space there by the block, buildings 10 and 12 stories high, and there is not a foot of space in any of them but what is filled with hides.

Mr. THOMAS. What are they holding them for?

Mr. SMOOT. It is impossible to sell them, Mr. President. Hides are lower to-day than they were in 1909; but I call the Senate's attention to the following experience I recently had: Two years ago I bought a pair of shoes at Edmonston's for \$12 plus the war tax. I purchased another pair, exactly like the others, just before I left for home last June, put them on, and when I went to pay the bill the clerk said, "\$18.80." Mr. President, I had them on my feet, was on the way to the train, and I had my old shoes tied up, or I would have told him to take his shoes and keep them. Mr. President, hides to-day are cheaper than they were in 1909, when I could have bought the same shoe for \$5.50.

Mr. WARREN. If the Senator will allow me, the price of hides is lower now than it has been since 1895.

Mr. SMOOT. I am only going back to 1909. We propose to control the one business and we let the man who sells the shoes make any profit he wants.

I had rather a funny experience just the other day in Salt Lake. I was living at the Utah Hotel, and while there met a traveling man representing a large shoe-manufacturing concern. In passing the sample room one day he asked me to come in. I went into the room and looked over his line of shoes, and I asked him the price of different kinds of shoes. I saw there the exact kind of shoe that Mrs. Smoot had purchased in the District of Columbia, made by the identical manufacturer. I

asked him what the wholesale price of that particular shoe was, and he said \$6.75 per pair. I said, "Mrs. Smoot bought a pair of the same kind of shoes, and she paid \$19 plus the war tax for them in the District of Columbia."

Is it the packer that needs regulating? On all of their over-turns they make less than 2 per cent. I know that they do a vast volume of business, and the organization is so perfect, Mr. President, that there is no cog loose in those great organizations. I wish that the business interests of this country, from one end of it to the other, were so ably managed. And now we propose the business shall be controlled by a commission. We propose that a commission shall prepare and issue, with the effect of law, rules and regulations and orders for the management of the business.

I have no excuse to make for the packers or anybody else who violates the law. I do not think for a minute the packers care anything about an ownership in the stockyards. In fact, I know they do not. They were provided in order that the business could go on without interruption and the stock shipped to market taken proper care of.

I know, Mr. President, that the only reason the packers invested in refrigerator cars was because they found that unless they were in a position to secure such cars the very day they wanted them, aye, the very hour, their products in many cases would spoil. Their experience taught them the railroads could not or would not furnish the cars necessary and at the time required; no profit is made in their ownership.

Suppose we had had no packers, Mr. President, when the late war was declared. Do you think we would have shipped the billions of pounds of meat that were shipped to our Army, the reports showing that there were less than 20,000 pounds of spoiled meat from the packers' doors until it was fed to our men in France? Do you think that could have ever happened, or do you think that the Government of the United States could have secured it, without an organization such as existed in this country?

Mr. President, as to the details of the bill I shall offer some suggestions, and I have some amendments to offer to it, if this Congress is going into this class of legislation. I can not believe that they would if they understood it. I do not believe, Mr. President, that it is possible that a majority of the House and a majority of the Senate would support legislation of this kind if they really knew what it meant.

Therefore I am going to ask the chairman of the committee if he will not consent that we take an adjournment at this time until to-morrow. I do not want to begin the discussion of the bill itself.

Mr. GRONNA. Mr. President, would the Senator be willing to take a recess until to-morrow? I think that we can dispose of this bill one way or the other in the course of two or three days.

Mr. SMOOT. Really, there is not such a necessity for immediate action upon this as there was upon the grain bill, and while I do not know of anything particular to come up in the morning hour to-morrow, there is nothing gained by recessing and having routine matters come in later, asking permission that they be presented out of order.

Mr. GRONNA. I want to say to the Senator that I do not want him to go on if he does not care to do so.

Mr. SMOOT. I do not want to proceed to-night. I wish to say also that to-morrow I expect to go on as soon as the morning business is closed.

Mr. GRONNA. I want to say to the Senator with all candor, there are many important bills pending which ought to be passed at this session. I realize that it is the short session, and all that. We have a bill which the War Department is very anxious to have passed, the bill providing for the manufacture of atmospheric nitrogen. It is a bill which is of very great importance to the people of the country, a bill which has been recommended by the administration. I believe there are more important bills standing upon the calendar now than at the beginning of any other session since I became a Member of this body. As one Senator, I am willing to work late and early to help dispose of them. I know that no one works harder than the Senator from Utah. We all know that. Could we not take a recess until to-morrow and go right on with the bill until we dispose of it?

Mr. SMOOT. I do not care what the Senator does. All I care to do is to say what I have to say. But I do not care to go on to-night.

Mr. GRONNA. I wish to say to the Senator from Utah that the members of the committee who have had this bill in charge are of the opinion that we ought to dispose of the matter one way or the other.

Mr. SMOOT. I agree with the Senator as to that.

Mr. GRONNA. We are glad to have suggestions. The bill is not perfect, and we are glad to have suggestions from any Senator. We sincerely hope to have their cooperation and approval. The whole country, I believe, is of the opinion that legislation of some sort with reference to the great packing industry must be passed, and we might just as well meet the situation frankly and fearlessly. So far as I am concerned, I have no grievance against the packers any more than I have against the farmers of the country; none whatever. It is simply a measure which I believe would be beneficial not only to the people generally but would be beneficial to the packers. This constant agitation which has been going on, and I might say the propaganda which has been going on from both sides, is not doing very much good, and I believe the Senator will agree with me on that.

Mr. SMOOT. I will say to the Senator that there is propaganda from both sides. There is no doubt about it at all, but that ought not to throw us off our feet. We ought at least to keep our heads.

Mr. GRONNA. I have confidence in the membership of this great body that there is enough genius, enough brains, enough patriotism and wisdom, and we understand the English language. I am perfectly willing to leave it to the lawyers of the Senate to write the bill and make it in such form that it will be workable and that it will do justice not only to the public but to the packers.

Mr. SMOOT. I hope the Senator will qualify that statement. I would not want to leave it to the lawyers of this body. I want to say something as a business man, and I think the Senator ought to. I have not any desire in my heart to do other than just what I think is in the best interests of the business of the country.

Mr. GRONNA. I am sure of that.

Mr. SMOOT. That is the position I take. It would be perfectly useless for me to go on to-night. The Senator may do just as he pleases, recess or adjourn.

The VICE PRESIDENT. The Chair will state to the Senator from Utah [Mr. SMOOT], who complains about the absence of Senators, that if he insists upon an enforcement of Rule V, clause 1—

No Senator shall absent himself from the Senate without leave—he will probably get a hearing to-morrow.

Mr. SMOOT. I thank the Chair for calling my attention to it.

Mr. GRONNA. I move that the Senate adjourn.

The motion was agreed to; and (at 5 o'clock and 5 minutes p. m.) the Senate adjourned until to-morrow, Wednesday, December 15, 1920, at 12 o'clock meridian.

## HOUSE OF REPRESENTATIVES.

TUESDAY, December 14, 1920.

The House met at 12 o'clock noon.

The Chaplain, Rev. Henry N. Couden, D. D., offered the following prayer:

Almighty Father, look down from Thy throne of grace upon this sin-stricken world with its sorrow and grief, with Thy loving compassions, and teach us the better way. "Man's inhumanity to man makes countless thousands mourn!"

Inspire us with more generosity, less selfishness, more love, less hate, more religion, less creed, more devotion, less conventionality, more humanity, less individuality, more heaven, less hell.

Oh why should the spirit of mortal be proud?  
Like a fast-flitting meteor, a fast-flying cloud,  
A flash of the lightning, a break of the wave,  
He passeth from life to his rest in the grave.

Increase our faith in Thee and in humanity, in the spirit of the Master. Amen.

The Journal of the proceedings of yesterday was read and approved.

### LEAVE TO EXTEND REMARKS.

Mr. LUFKIN. I ask unanimous consent to extend my remarks in the RECORD on the question of the permanent restriction of immigration.

The SPEAKER. The gentleman from Massachusetts asks unanimous consent to extend his remarks in the RECORD on the permanent restriction of immigration. Is there objection? There was no objection.

### REPORT OF THE PUBLIC BUILDINGS COMMISSION.

Mr. CLARK of Florida. Mr. Speaker, at the request of the gentleman from Kentucky [Mr. LANGLEY] I ask unanimous

consent to file a report of the Public Buildings Commission for printing in the RECORD.

The SPEAKER. The gentleman from Florida asks unanimous consent to file a report of the Public Buildings Commission for printing in the RECORD. Is there objection?

There was no objection.

The report is as follows:

### REPORT OF THE PUBLIC BUILDINGS COMMISSION. (Presented by Mr. LANGLEY.)

The Public Buildings Commission believes that a report of its activities since its creation will be of interest to Congress at this time.

The legislative act approved March 1, 1919, provides that the "commission shall have the absolute control of and the allotment of all space in the several public buildings owned or buildings leased by the United States in the District of Columbia," with certain exceptions. The commission is composed of seven members—two Senators, two Members of the House of Representatives, the Superintendent of the Capitol Building and Grounds, the officer in charge of Public Buildings and Grounds, and the Supervising Architect or the Acting Supervising Architect of the Treasury. Ten thousand dollars was appropriated for the expenses of the commission.

The work of the commission has been conducted with the following objects primarily in view:

First. To save the Government as much money as possible in rental charges by moving activities from rented to Government-owned space wherever feasible.

Second. To settle office space disputes among the departments. (The commission is glad to say these have been few in number.)

Third. To provide, so far as circumstances would permit, suitable and adequate space for each department of the Government.

Immediately upon its organization the commission undertook and completed a very comprehensive survey of all office space occupied by the Government in this city, both rented and Government-owned.

This survey gave such information as the name and location of each building occupied by the Government, gross space occupied, the number of employees housed therein, space used for files, space used by employees, average number of square feet per employee, and other data of like nature, which enabled the commission to get a very clear view of the situation in each building. Taking 60 square feet per employee as a basis, it was not difficult to single out the overcrowded buildings and those which were too sparsely occupied. Illustrating the haphazard manner in which these buildings were being used, it might be added that the commission found one building so crowded that each employee was occupying an average of only 11 square feet. Other buildings ran as high as 200 square feet per employee.

The survey showed the necessity for a number of moves and readjustments of space, and these were immediately ordered by the commission. The result was the release of a considerable number of rented buildings and a more even distribution of the space in Government-owned buildings.

A comparison of the rentals paid by the various departments on June 1, 1919, when the commission completed its first survey, and the present will no doubt be of interest:

Department.	Annual rentals June 1, 1919.	Annual rentals Dec. 1, 1920.
Agriculture.....	\$190,910.00	\$143,363.00
Alien Property Custodian.....	31,200.00	31,200.00
Board of Mediation and Conciliation.....	2,460.00	2,460.00
Bureau of Efficiency.....	16,875.00	16,875.00
Civil Service Commission.....	66,900.00	65,500.00
Commerce.....		
Council National Defense.....		
Court of Claims.....	6,400.00	
Federal Board for Vocational Education.....	12,600.00	
Federal Trade Commission.....		
Grain Corporation (Food Administration).....		
Interdepartmental Social Hygiene Board.....	23,000.00	
Interior.....	2,040.00	2,688.00
International Boundary Commission.....	1,724.40	3,000.00
International Joint Commission.....	72,058.04	87,058.04
Interstate Commerce Commission.....	36,000.00	36,000.00
Justice.....	58,361.60	24,000.00
Labor.....		
National Advisory Committee for Aeronautics.....	1,224.00	
Navy.....	7,500.00	7,500.00
Panama Canal Office.....		
Post Office.....		
Public Buildings and Grounds.....		
Railroad Administration.....	86,985.00	(1)
Shipping Board.....	210,105.56	86,279.40
State.....	5,000.00	
Superintendent, State, War and Navy Buildings.....		
Tariff Commission.....	11,000.00	10,200.00
Treasury.....	174,839.00	159,106.08
War.....	81,867.08	25,425.00
Zone Finance Office.....	18,559.00	14,333.28
Zone Supply Office.....	11,383.00	11,383.00
Totals.....	1,134,581.68	733,361.80

\* Rentals for buildings occupied by the Railroad Administration are now being paid by funds derived from the operation of the railroads.

The difference between these two totals shows a saving in rental charges to the Government of \$401,216.88, to which should be added the \$86,279.40 rental now being paid by the Shipping Board, making a total saving of \$487,496.28. The reason for adding this amount to the total is that arrangements have been made for the entire personnel of the Shipping Board to occupy the new Navy Building, and as soon as the necessary details can be worked out the move will be made.

### THE TEMPORARY BUILDINGS.

There are now in this city 15 temporary nonfireproof buildings which were built by the Government during the war. This does not include the Navy Building, the Munitions Building, and Building E, at Sixth